IMT Nuremberg Archives

H – 5156

International Court of Justice

H5156 – 0002

BRITISH FINAL SPEECH

CORRECTION TO ERRATA LIST NO. 1

Take out first correction on Errata List No. 1 (p. 2 line 10: insert "a" before "millionfold")

and insert:

"Page 2, line 8: for "fault" read "guilt".

(9476)

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BRITISH FINAL SPEECH
ERRATA LIST No.1

Page 2, line 10: insert "a" before "million fold"

" 9, insert as opening to last para: "First then, the elimination of political opponents".

" 17, 5 lines from bottom: for "Koener" read "Koerner". In margin against this insert 5712.

" 23, Delete brackets.

" 24, line 5, for "of the" read "to the".

" 25, last line: insert "the" before "Youth".

" 28, line 17: for "played" read "playing".

" 32, against Jodl's comment insert "PS 1809, GB 88".

" 35, line 1: for "Doenitz" read "Raeder".

" ", " 1: delete inverted comma after "blows".

" ", against line 1 insert "C 126, GB 45"

" " for "C126c, GB 45" read "L 79, US 27".

" 42, 4 lines from bottom: for "adjucate" read"adjudicate".

" 64, line 25: for "German War Office" read "OKH".

" 666, for "683 PS" read "638 PS".

" 73, 79 and 84: above "USSR 172" delete "864 PS".

" 77, for "L 170" read "L 70".

" 81, against first quotation insert "USSR 378".

" 88, for "1475 PS, US 239" read "R 135, US 289".

" 97, 3 lines from bottom: for "mainly" read "merely".

" 103, for "EC 451, US 626" (reference for last quotation) read "EC 461, US 58, 2550".

" 104, for "EC 401, 8849/50" read "EC 461, US 58, 2550, 8849/50".

" 110, line 1: insert "and" after "them".

" 114, delete the first sentence and read: "Perhaps the key to Fritzsche's readiness to conceal the evil deeds of his masters is revealed by the basic principle of his propaganda:".

" " 11 lines from bottom: for "Saturday morning" read "Saturday evening".

" 117, line 5: for "restablish" read "re-establish".

" " " 20: insert inverted commas before "pointed", delete inverted commas before "and seemed".

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BRITISH FINAL SPEECH

ERRATA LIST NO. 2

Page 15, line 18: delete rest of paragraph after "persecution of the Jews" and insert:

Speech to Nuremburg Congress 12 Sept.38.

"Let no-one be misled by the metaphysical explanations which are put forward for this most frightful crime. What Hitler himself, in this very town, described as the fanatical combat against the Jews was part and parcel of the policy for establishing "ein Volk" - ein Herrenvolk which should dominate Europe and the World. And so the persecution of the Jews was popularised throughout the country. It provided a cement which bound the people to the Regime. It gave the youths a butt to bully and so to acquire practical schooling in brutality."

Page 15: line 25: after "been conceived" insert:

GB 128

"In Mein Kampf - the bible of these Defendants - Hitler had regretted that poison gas had not been employed to exterminate German Jews during the last war. And as early as 1925 .... "

Page 22, line 13: insert new paragraph:

GB 128

"You have had from defence Counsel an elaborate but a partial and highly controversial account of foreign relations leading up to 1939. I do not propose to follow them in that examination, nor am I concerned to say that, as events have turned out, the policies pursued by the democratic powers may not sometimes have been weak, vacillating, open to criticism. But the review which Defence Counsel have made entirely overlooks the two basic facts - that from the time of Mein Kampf on the whole aim of Nazi policy was expansion, aggression, domination and that the Western Powers had to deal with a Germany of which that was, in spite of occasional lip service to peace, the fundamental aim. If peace was contemplated at all it was peace only at Germany's price. And knowing that that price would not be paid voluntarily the Germans were determined to secure it by force."

Page 42, line 28: for sentence "But for that reason .... disputes between States" substitute:

"But that is equally true of the undoubted civil responsibilities of States, for apart from treaty there is no compulsory jurisdiction in any international tribunal to adjudicate upon them."

Page 49, line 19: delete "mere" and insert after "here" the word "solely".

line 25: after "position" insert the following new sentences:-

"Nor need we take time to examine the astonishing proposition that the sinking of neutral shipping was legalized by the process of making a paper order excluding such ships not from some definite war zone over which Germany exercised effective control but from vast areas of the seven seas. For there is one matter at least about which nobody questions the law."

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Page 51, line 6: after "War Policy" insert:

GB 128

"Pursuing that for a moment the racial policy against the Jews was as I have said, simply one facet of the Herrenvolk doctrine. In Mein Kampf Hitler had said that the most decisive factor in the German collapse in 1918 was "the failure to recognise .... the racial problem and the Jewish menace." The attack on the Jews was at once a secret weapon - an enduring fifth column weapon - to split and weaken the democracies and a device for unifying the German people for war. Himmler made it clear in his speech on October 4th, 1943, that the treatment meted out to German Jews was closely connected with the war policy. He said:

1919 PS
US 170

> "For we know how difficult we should have made it for ourselves if ... we still had Jews today in every town as secret saboteurs, agitators and trouble mongers".

So the crime against the Jews, in so far as it is a crime against humanity and not a war crime, is one which we indict because of its close association with the crime against the peace.

Page 69, line 24: insert new paragraph:

D 851
GB 451

"As early as the 3rd September 1939 the German Navy, in a memorandum to the Foreign Office, were seeking agreement to a policy of sinking without warning both enemy and neutral merchant ships in disregard of the London Submarine Rules, their own Prize Ordinance and of International Law. A series of documents during the following six weeks reveals constant pressure on the Foreign Office by Raeder to consent to this policy."

D 852)
GB 469)
D 853)
GB 470)

Page 69: Bracket D 857 with D 852 and D 853.

Page 70, line 31: after "war at sea" insert new paragraph:

"The Defence that the sinking of Allied merchant ships without warning was justified by Allied measures is as untenable as the suggestion that the sinking at sight of neutral merchant ships was preceded by warnings which complied with the requirements of International Law.

C 157
GB 224

You have seen the very vague and general warnings given to the neutrals and the memorandum of the Naval War Staff revealing that these were deliberately given in the most general terms because Raeder knew that the action he intended against neutrals was utterly illegal. I need

C 191
GB 193

not remind you of the document which suggests that orders should be given by word of mouth and a false entry made in the log book, the very practice followed in the case

D 662
GB 222

of the "Athenia", or of the entries in Raeder's own war diary revealing that carefully selected neutrals should be

C 21
GB 194

sunk wherever the use of electric torpedoes might enable the Germans to maintain that the ship had really struck a mine. You have confirmation in the bland denials pre-

D 807
GB 454

pared by Raeder to answer the protests of the Norwegian and Greek Governments on the sinking of the "Thomas Walton" and"Garufalia" and the reluctant admission in the case of the "Deptford", all three ships sunk in December 1939 by

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"the same U-boat. Nothing reveals more of the cynicism or opportunism with which Raeder and Doenitz treated International Law than the contrast between their attitude towards the sinking of a Spanish ship in 1940 and that in
9234-5 September 1942. In 1940 Spain did not matter to Germany:
9348-9 in 1942 she did."

Page 71, last line: add new paragraph:-

"The evidence shows constant pressure by Hitler from then on for the issue of this order. It is admitted
DB 16,17 that he demanded it at a meeting with both Doenitz and Raeder on the 14th May and that he raised the question
DB 39 again on the 5th September. Doenitz himself referred to pressure by Hitler during the "Laconia" incident. You have confirmation that the order issued on the 17th
D 630 September was intended to bear the construction put
GB 199 upon it by the Prosecution in the evidence of the witness Heisig and that of Mochle. Is it conceivable that a senior officer would have been allowed to go on from the 17th September 1942 until the end of the war briefing the hundreds of U-boats which set out from Kiel that this was an order to annihilate unless that was what the Naval War Staff intended? You have the evidence that Doenitz himself
9234, saw every U-boat commander before and after his cruise, his
9279 own admissions with regard to the comments made by his staff officers at the time he drafted the order and his general attitude revealed by the order of October 1939, which he admits was a non-rescue order - an utterly indefensible order in itself in the submission of the Prosecution. There is further the coincidence that the
D 423 very argument which Hitler advanced to Oshima, namely, the
GB 197 importance of preventing the Allies finding the crews for the immense American construction programme, was the argument Doenitz himself admits putting forward on the 14th May, was the argument which Heisig reports hearing, and is the reason given for the subsequent order to give priority
D 663 in attacking convoys to sinking rescue ships. You have
GB 200 the instances of the "Antonico", the "Noreen Mary", and the
D 645 "Peleus" whilst the man who expressed horror at the idea that
GB 203 he should issue such an order admittedly saw the log of the
D 647 U-boat which sank the "Sheaf Mead" with its brutal entry
GB 204 describing the sufferings of those left in the water.
D 644 Doenitz' own statement was that "to issue such a directive
GB 192 could only be justified if a decisive military success
DB 42 could be achieved by it". Was it not because, as his own document shows, the percentage of ships being sunk outside convoys in September 1942 was so high that a decisive military success might have been gained that this order was issued, whereas in April 1943, when almost all sinkings were in convoy, it was not necessary to issue a further order yet more explicit in its terms?"

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Page 107, last line: after "talk" and before "yet" insert:

"You will remember his phrase - an academic lecture on war - "

Page 108, line 28: after "in his office" insert new paragraph:

10525
R.124
US.179
10802
R.124
US.179
10809
D.524
GB.532

"What is the crime of Sauckel whose Gau contained the infamous camp of Buchenwald? Sauckel may now seek to put a gloss on his order to shanghai Frenchmen, to deny that he advocated the hanging of a Prefect or a Mayor to crush opposition, to say that references to ruthless action referred to interdepartmental disputes and that reformatory labour camps were purely educational institutions. You who have seen the documents which attest the horrors perpetrated in what we are now told was the product of an emergency - the urgent need for workers to feed the Nazi machine, you who have heard and read of the conditions in which 7 million men, women and children torn from their homes were dragged into slavery at his orders can need no further proof of guilt."

Page 109, after "serve in Heaven" add the following new paragraph:

"Defence Counsel have sought to portray Papen as an advocate of Peace. If he preferred to attain the objects of the conspiracy by the methods of assassination, bullying and blackmail rather than open war the reason may be that provided by him in his own evidence, namely that he feared that:

11845, 6

"If a World war were to break out Germany's situation would be hopeless" "

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Part I:
The purpose
of the Trial

That these Defendants participated in and are morally guilty of crimes so frightful that the imagination staggers and reels back at their very contemplation is not in doubt.

8099

Let the words of the Defendant Frank be well remembered: "thousands of years will pass and this guilt of Germany will not be erased." Total and totalitarian war, waged in defiance of solemn undertakings and in breach of Treaties; great cities, from Coventry to Stalingrad, reduced to rubble, the countryside laid waste, and now the inevitable aftermath of war so fought - hunger and disease stalking through the world: millions of people homeless, maimed, bereaved. And in their graves, crying out, not for vengeance but that this shall not happen again, ten million who might be living in peace and happiness at this hour, soldiers, sailors, airmen and civilians killed in battles that ought not to have been.

Nor was that the only or the greatest crime. In all our countries when, perhaps in the heat of passion or for other motives which impair restraint some individual is killed, the murder becomes a sensation, our compassion is aroused, nor do we rest until the criminal is punished and the rule of law is vindicated. Shall we do less when not one but on the lowest computation twelve million men, women and children, are done to death. Not in battle, not in passion, but in the cold, calculated, deliberate attempt to destroy nations and races, to disintegrate the traditions, the institutions and the very existence of free and ancient States. Twelve million murders. Two thirds of the Jews in Europe exterminated, more than six million of them on the killers' own figures. Murder conducted like some mass production industry in the gas chambers and the ovens of Auschwitz, Dachau, Treblinka, Buchenwald, Mauthausen, Maidanek and Oranienburg.

2738 PS
(USA 296)

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Is the world to overlook the revival of slavery in Europe, slavery on a scale which involved 7,000,000 men, women and children taken from their homes, treated as beasts, starved, beaten and murdered?

It may be that the guilt of Germany will not be erased for the people of Germany share it in large measure, but it was these men who with a handful of others brought that guilt upon Germany and perverted the German people. "It is my fault" - confessed the Defendant Schirach - "that I educated the German youth for a man who committed murders millionfold."

10294

For such crimes these men might well have been proceeded against by summary executive action and had the treatment, which they had been parties to meting out against so many millions of innocent people been meted out to them, they could hardly have complained. But this Tribunal is to adjudge their guilt, not on any moral or ethical basis alone, but according to law. That natural justice which demands that these crimes should not go unpunished, at the same time insists that no individual should be punished unless patient and careful examination of the facts shows that he shared the guilt for what has been done. And so, during these many months, this Tribunal has been investigating the facts and has now to apply the law in order both that justice may be done to these individuals as to their countless victims, and also that the world may know that in the end the predominance of power will be driven out and law and justice shall govern the relations between States.

For the effects of this trial will reach out far beyond the punishment of a score or so of guilty men. Issues are at stake here far greater than their fate, although upon their fate those issues depend. In the pages of history it will count for nothing whether this trial lasted two months or ten. But it will count for much that by just and patient examination the truth has been

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established about deeds so terrible that their mark may never be erased, and that law and justice have been vindicated.

Within the space of a year evidence far exceeding that previously presented to any Tribunal in history has been collected, sifted and placed before you. Almost all of that evidence consists of the captured records and documents of the Government to which these men belonged, and much of it directly implicates each one of them with knowledge of and participation in one or other aspect of the crimes committed by the Nazi State. This evidence has not been refuted and will remain for ever to confront those who may hereafter seek to excuse or mitigate what has been done. Yet now that this mass of evidence has been presented to you I shall invite you for a little to detach your minds from its detail to consider the cumulative effect and to review this overwhelming case as a whole. It is only by chance that their captured papers have enabled us to establish these crimes out of the very mouths of the criminals. But the case against these men can be established on a broader basis than that, and must be looked at in the light of its historical background.

Part II: The General Conspiracy. (a) The Nazi Plans.

When one considers the nature and the immensity of the crimes committed the responsibility of those who held the highest positions of influence and authority in the Nazi State is manifest beyond doubt. For years, in a world where war had itself been declared a crime, the German State was organised for war; for years the Jews were boycotted, deprived of their elementary rights of property, liberty, life itself; for years honest citizens lived in fear of denunciation and arrest by one or other of the organisations, criminal as we allege them to be, through which these men ruled Germany; for years throughout the German Reich millions of foreign slaves worked in farm and factory, were moved like cattle on every road, on every railway line.

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These men were, with Hitler, Himmler, Goebbels and a few other confederates at once the leaders and the drivers of the German people; it was when they held the highest positions of authority and of influence that these crimes were planned and perpetrated. If these men are not responsible, who are? If minions who did no more than obey their orders, Dostler, Eck, Kramer and a hundred others have already paid the supreme penalty, are these men less responsible? How can you say that they and the offices of State which they directed took no part? Lammers, their own witness, Head of the Reich Chancellery, said in 1938:

3863 PS
GB 320

> "Despite the total basic concentration of power of authority in the person of the Fuehrer, no excessively strong and unnecessary centralization of administration in the hands of the Fuehrer results in the governmental administration..... The subordinate leader's (Unterfuehrer) authority, directed downwards, forbids interference with every individual order he may issue. This principle is manipulated by the Fuehrer in his governmental leadership in such a way that, for example, the position of Reich Ministers is actually much more independent today than formerly, even though today the Reich Ministers are subordinated to the Fuehrer's unlimited power of command. Willingness to bear responsibility, ability to make decisions, aggressive energy and real authority - these are the qualities which the Fuehrer demands primarily of his subordinate leaders. Therefore he allows them the greatest freedom in the execution of their affairs and in the manner in which they fulfil their tasks."

Let them now, accused murderers as they are, attempt to belittle the power and influence they exercised how they will, we have only to recall their branting, as they strutted across the stage of Europe dressed in their brief authority, to see the part they played. They did not then tell the German people or the world that they were merely the ignorant, powerless puppets of their Fuehrer. The Defendant Speer said:

12183

> "Even in a totalitarian system there must be total responsibility.....it is impossible after the catastrophe to evade this total responsibility. If the war had been won the leaders would also have assumed total responsibility."

H5156 - 0012

Had the war been won is it to be supposed that these men would have retired to the obscurity and comparative innocence of private citizenship? That opportunity was not denied to them before the war had they wished to dissociate themselves from what was taking place. They chose a different path. From small beginnings, at a time when resistance instead of participation could have destroyed this thing, they fostered the Hitler legend, they helped to build up the Nazi power and ideology and to direct its activities until, like some foul octopus, it spread its slime over Europe and extended its tentacles throughout the world. Were these men ignorant of the ends sought to be achieved during that period of the rise to power? Paul Schmidt, Hitler's interpreter, a witness of great knowledge, has testified:

> "The general objectives of the Nazi leadership were apparent from the start - namely, the domination of the European continent to be achieved first by the incorporation of all German speaking groups in the Reich, and secondly, by territorial expansion under the slogan of 'Lebensraum'".

3308 PS
(GB 288)

That slogan "Lebensraum" - that entirely false idea that the very existence of the German people depended upon territorial expansion under the Nazi flag - was from the earliest days an openly avowed part of the Nazi doctrine - yet any thinking person must have known that it would lead to war.

386 PS
USA 25

L 79
USA 27

789 PS
USA 23

It was the justification Hitler offered to his fellow conspirators at those secret meetings on the 5th November 1937, 23rd May and 23rd November 1939, at which the fate of so many countries was sealed.

Although less concrete it was no less false than the demand for a revision of the Treaty of Versailles. The so-called injustice of Versailles so cunningly exploited to provide a popular rallying point under the Nazi banner, had succeeded in uniting behind the Nazis many Germans who would not otherwise have supported some of the rest of their programme.

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The effect of that propaganda can be judged from the repeated efforts here made by the Defence to develop the alleged injustice of the Treaty. Unjust or not, it was a Treaty and no Government content to live at peace need have complained of its provisions. Even if the complaints were justified, there was comparatively soon no ground left for them. The provisions of the Treaty could have been - in some respects they were - revised by peaceful negotiation. By 1935, four years before the world was plunged into war, these men had publicly renounced the Treaty, and by 1939 not only were they free of nearly all the restrictions of which they had complained, but they had seized territory which had never belonged to Germany in the whole of European history. The cry of Versailles was a device for rallying men to wicked and aggressive purposes. But it was a device less diabolical than the cry of anti-semitism and racial purity, by which these men sought both to rally and cement the various forms of perverted public opinion in their own country and to sow discord and antagonism amongst the peoples of foreign lands. Rauschning reports Hitler's statement:

> "Anti-semitism is a useful revolutionary expedient. Anti-semitic propaganda in all countries is an almost indispensable medium in the extension of our political campaign. You will see how little time we shall need in order to upset the ideas and criteria of the whole world simply and solely by attacking Judaism. It is beyond question the most important weapon in my propaganda arsenal."

USSR 378

As an example of the result of this wicked propaganda I would remind you of the words of Bach Zelewski who, when asked how Ohlendorf could admit that the men under his command had murdered 90,000 people, replied:

> "I am of the opinion that when, for years, for decades, the doctrine is preached that the Slav race is an inferior race and Jews not even human, then such an outcome is inevitable."

S/N 2241

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And so, from the earliest days, the aims of the Nazi movement were clear: expansion, European domination, elimination of the Jews: ultimate aggression, ruthless disregard of the rights of any people but themselves.

Such were the beginnings. I shall not pause

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to trace the Nazi Party's growth to power; how, as the writer of the History of the S.A. has said, they found that

2168 PS
US 411

> "Possession of the streets is the key to power in the State."

10084

or how by the organised terror which the witness Severing has described, the storm troops of Brownshirts terrified the people whilst Nazi propaganda, headed by Der Sturmer, vilified all opponents and incited the people against the Jews.

I shall not examine that period, grave as are the lessons which democratic peoples ought to learn from it, for it may not be easy to say exactly at what date each of these Defendants must have realised, if, indeed, he had not known and gloried in it all from the first - that Hitler's apparently hysterical outpourings in Mein Kampf were intended in all seriousness and that they formed the very basis of the German plan. Some, no doubt, such as Goering, Hess, Ribbentrop, Rosenberg, Streicher, Frick, Frank, Schacht, Schirach and Fritzsche realised it, very early. In the case of one or two such as Doenitz and Speer it may have been comparatively late. Few can have been ignorant after 1933: all must have been active participants by 1937. When one remembers the apprehension caused abroad during that period there can be no doubt that these men, almost all of whom were the rulers of Germany from 1933 onwards, Hitler's intimate associates, admitted to his secret meetings, with full knowledge of plans and events, not only acquiesced in what was taking place but were active and willing participants.

May I examine them, in a little more detail, the period of the "build up" - the position of domestic government in Germany between 1933 and 1939; for what happened then makes clear the criminal involvement of these men in what was done later. What I say now has special reference to the first Count in the Indictment, for it is against this general background that must be considered the allegation that these men were common conspirators to commit the crimes (such as the crimes against peace and against humanity) more specifically charged in the later Counts.

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t. II. The neral Con- piracy. (b) the Nazi uild up 933-1939.

Totalitarian Government brooks no opposition. Any means justifies the end and the immediate end was ruthlessly to gain complete control of theGerman State and to brutalise and train its people for war. What stood in the way in January, 1933? First, the members of the other political parties; second, the democratic system of election and of a public assembly, the organisation of labour in trade unions; third, the moral standards of the German people, and the Churches which fostered them.

Accordingly, the Nazis set out to eliminate this opposition: the first, by imprisoning or terrorising their opponents; the second, by declaring illegal all elements of tolerance and liberalism, outlawing trade unions and opposition parties, reducing the democratic assembly to a farce and controlling elections: the third, by systematic discouragement and persecution of religion, by replacing the ethics of Christianity with the idolatry of the Fuhrer and the cult of the blood and by rigidly controlling education and youth. Youth was systematically prepared for war and taught to hate and persecute the Jews; the plans for aggression required a nation trained in brutality and taught that it was both necessary and heroic to invade the peoples of other countries.

It is a measure of the wickedness and effectiveness of this domestic policy that after six years of rule the Nazis found little difficulty in leading a perverted nation into the greatest criminal enterprise of history. It is worth considering from the evidence a few examples of how this policy developed during these six years. They are examples of what happened in every German town and village: it must be remembered that in the need to avoid cumulative evidence you have thereby been deprived of its cumulative effect.

D 911
GB 512
12331

Within six weeks of the Nazis coming to power in January 1933 the German newspapers were quoting official sources for the statement that 18,000 Communists had been imprisoned whilst the 10,000 prisoners in the gaols of Prussia included many Socialists and intellectuals. The fate of many of these men was described by

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Severing, who estimated that at least 1,500 Social Democrats and a similar number of Communists were murdered in the concentration camps recently established by Goering as Chief of the Gestapo.

These camps, controlled by the Party organisations, were deliberately so run as to strike

/terror

9183

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terror throughout the country. In the words of the witness

10077 Severing, the concentration camps represented for the people "the incarnation of all the terrible".

Goering has stated:

6051 "We found it necessary that we should permit no opposition to us"

and he admitted that there were arrested and taken into

6054A protective custody people who had committed no crime.

He added that

6057A "if everyone knows that if he acts against the state he will end up in a concentration camp..... that is to our advantage".

The camps were at first run indiscriminately by the SA and the SS and according to Goering were created

5833 "as an instrument which at all times was the inner political instrument of power".

Gisevius, who at that time had recently joined the Gestapo, gave the following description:-

"I was hardly more than 2 days in that new police office when I had discovered already that incredible conditions existed there. There was no police which interfered against crimes, against murder, against arrests, against burglary. There was a police organisation which protected just those who committed such crimes. Those arrested were not those who were guilty of such crimes, they arrested those who sent their cries for help to the police. It was not a police which interfered for protection, but a police whose task, it seemed, was, in fact, to hide, to cover up and to sponsor crimes; those commandos of the SA and SS who played police, were encouraged by that so-called Secret
S/N 8302-4 State Police and all possible aid was given to them .....

"Special concentration camps for the Gestapo were installed and their names will remain for a terrible shame in history. They were Oranienburg and the private prison of the Gestapo, in the Papenstrasse, the Columbia House, or, as it was called cynically, the "Columbia Diele" (Columbia Hall)..... I asked one of my colleagues, who was also a professional civil servant..... "Tell me, please; am I here in a police office or in a robber's cave". The answer that I received was: "You are in a burgler's cave and you can expect that you will see much more yet".

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Gisevius went on to describe Goering's order to murder the National Socialist Strasser and how he gave "blank authority" for murder to the political police, by signing a form granting amnesty to the policeman, leaving a blank space for the name of the murdered person in respect of whom the amnesty was granted.

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If confirmation of the evidence of these defence witnesses is required it is to be found in the series of reports dated May and June 1933 from the Munich Public Prosecutor to the Minister of Justice which are in evidence recording a succession of murders by SS officials in the concentration camp at Dachau.

641, 642, 644, 645, PS (US 450, 451, 452, 453).

In 1935 the Reich Minister of Justice in writing to Frick; he protests against numerous instances of ill treatment in c. concentration camps including

3751 PS (US 828

> "Beating as a disciplinary punishment....
>
> "ill-treatment mostly of political internees in order to make them talk"..... and
>
> "ill-treatment of internees arising out of sheer fun or sadistic motives".

He complains that

> "the beating of communists held in custody is regarded as an indispensable police measure for a more effective suppression of Communist activities".

And after citing instances of torture he concludes:

> "These few examples show a degree of cruelty which is an insult to every German sensibility".

Frick's sensibility was apparently not so tender - the very next year he received a similar protest from one of his own subordinates and shortly afterwards issued a decree making all police forces subordinate to Himmler, the very man whom he knew to be responsible for these atrocities.

775 PS (Frick No.9)

These brutalities, well known to Ministers, were not confined to the privacy of concentration camps. It is perhaps worth quoting one instance from the thousands who

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suffered from the policy.

The Tribunal will remember the account by Sollman, a Social Democrat and member of the Reichstag from 1919-1933, of the incident on March 9th of 1933 when, to quote his own words:

> "Members of the SS and SA came to my home in Cologne and destroyed the furniture and my personal records. At that time I was taken to the Brown House in Cologne where I was tortured, being beaten and kicked for several hours. I was then taken to the regular Government Prison in Cologne where I was treated by two medical doctors and released the next day. On March 11th 1933 I left Germany".

3221 PS
US 422

The second object the suppression of all democratic institutions was comparatively simple. The necessary laws were passed to outlaw trade unions: the Reichstag became a farce directly the opposition parties had been dissolved and their members put into concentration camps. The witness Severing has spoken of the treatment of its members. In 1932 on Von Papen's order he, who was chief of the Prussian Ministry of the Interior, was forcibly removed from his office. It was not long after the 30th January, 1933, that the Communist and Social Democratic parties were decreed illegal and all form of public expression other than by the Nazis prevented. This action resulted from deliberate planning. Frick had said in 1927 that:

S/N 10082

> "The National Socialists longed for the day when they could put an inglorious but well deserved end to this infernal sham of Parliament and open the way for a racial dictatorship".

PS 2513
US 235
2847

At this time when democratic Government is seeking to re-establish itself throughout the world, the Nazi attitude to elections is not to be forgotten. Free elections could not, of course, be permitted. Goering had told Schacht in February 1933 when seeking money for the Party from industry

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D 203
US 767

> "the sacrifices asked for will surely be so much easier for industry to bear if it is realised that the election of March 5th will be the last one for the next ten years, probably for the next 100 years".

In these circumstances it is not surprising to find that

R 142
US 481

thereafter, as the evidence such as the SD report on the conduct of the plebiscite at Kappel makes clear, the occasional votes of the people, always announced as triumphs for the Nazis, were conducted dishonestly.

I turn to the third class of opposition the Churches:- Bormann's memorandum sent in December 1941 to all Gauleiters and distributed to the SS sums up the Nazi attitude to Christianity:

D 75
US 348

> "National Socialist and Christian concepts are irreconcilable.... If therefore in the future our youth knows nothing more of this Christianity whose doctrines are far below ours Christianity will disappear by itself..... All influences which might impair or damage the leadership of the people exercised by the Führer with the aid of NSDAP must be eliminated. More and more the people must be separated from the churches and their organs, the pasters".

The persecution of the churches makes a melancholy story. From the abundance of evidence before the Tribunal it is perhaps permissible to quote from a complaint to Frick made early in 1936:-

775 PS
(Frick No.9)

> "Lately half the political police reports concern clerical matters. We have untold petitions from all kinds of cardinal, bishops and dignitories of the Church. Most of these complaints concern matters under the jurisdiction of the Reich Ministry of the Interior, although the respective rules were not decreed by it...."

And then after referring to the chaos resulting from the division of authority between the various police forces, the report goes on to refer to the results of the religious struggle:

> "Instances of gross disturbances of congregations are mounting terribly fast, lately, often necessitating the intervention of the emergency squad.... After discarding the rubber truncheon the idea of exposing executive officials to situations in which, during gross interruption of meetings, they may be forced to use cold steel, is unbearable".

3751 PS
(US 858)

The diary of the Minister of Justice for 1935 provides

H5156-0022

ample instances of the sort of behaviour which was being encouraged by the Hitler Youth under the defendant Schirach and the defendant Rosenberg. The Hitler Jugend, whose membership increased from just under 108,000 in 1932 to nearly 8,000,000 in 1939, was organised on a military basis. The close collaboration between Keitel and Schirach in their military education has been described; the special arrangement between Schirach and Himmler by which the Hitler Jugend became the recruiting organisation for the SS is in evidence. You will not have forgotten the words of Schirach's deputy:

2435 PS (Archiv) 10347

2396 PS US 673

> "In the course of years we want to ensure that a gun feels just as natural in the hands of a German boy as a pen".

1092 PS US 439

The terrorisation, murder and persecution of political opponents, the dissolution of all organisations affording opportunity for opposition, criticism or even free speech, the systematic perversion of youth and training for war would not, however, have sufficed without persecution of the Jews. Their persecution was popularised throughout the country by systematic propaganda and provided a cement which bound the people to the regime and the necessary butt for the youth to bully and thus acquire practical schooling in brutality.

With the accession to power the persecution of the Jews increased in violence. The final solution of mass murder had then been conceived. As early as 1925, Streicher said:

> "Let us make a new beginning to-day, so that we can annihilate the Jew".

1 13 (US 165)

It may be that he, even before Hitler, Himmler or the others, had visualised the annihilation of the Jews, but the Nazis were not at first ready to defy world opinion and confined themselves to persecution and to making life in Germany unbearable for Jews. To the never ceasing accompaniment of the Sturmer and the official Nazi Press the campaign of Jew baiting was fostered and encouraged.

H5156 - 0023

Rosenberg, Von Schirach, Goering, Hess, Funk, Bormann and Frick joined hands with Streicher and Goebbels. The boycott in April 1933 celebrated the Nazi accession to power and provided only a taste of what was to follow. It was accompanied by demonstrations and window smashing - action "mirror" as it has been referred to in this Court. Accounts of typical incidents are given in the affidavit of the witness Geist who describes the events in Berlin on March 6th, 1933:

1759 PS
US 420

> "Wholesale attacks on the Communists, Jews and those who were suspected of being either, mobs of SA men roamed the streets, beating up, looting and even killing persons".

In 1935 followed the infamous Nuremberg Decrees. In 1938 the so-called spontaneous demonstrations ordered throughout Germany resulted in the burning of the synagogues, the throwing of 20,000 Jews into concentration camps with the accompaniment of penalties, of aryanization of property, and the wearing of the yellow star.

The cynicism of these men and the merciless character of their policy towards the Jews appeared at Goering's meeting of 12th November, when they vied with each other in suggesting methods of degrading and persecuting their helpless victims. Neither Hitler nor Himmler, whom to-day they seek to blame, was present and who, reading its record, can doubt the end in store for the Jews of Europe ? At that meeting Heydrich reported on the events of the 12th November:

1816 PS
(US 261)

101 synagogues destroyed by fire, 76 demolished and 7,500 stores ruined throughout the Reich. The approximate cost of replacing broken glass was estimated at RM 6,000,000 and the damage to one store in Berlin at RM 1,700,000. Heydrich also reported 800 cases of looting, the killing of 35 Jews and estimated the total damage of property, furniture and goods at several hundred million Reichsmarks.

H5156-0024

You will recall Heydrich's order for the riot, including the arrests of the Jews and their removal to concentration camps. After referring to the fact that demonstrations were to be expected in view of the killing of a German Legation official in Paris that night, he instructs the Police on the prospective burning of syngogues, destruction of business and private apartments of Jews, and in their duty to refrain from hindering the demonstrators.

3051 PS (US 240)

> "The Police has only to supervise compliance with the instructions."

And finally:

> "In all districts as many Jews, especially rich ones, are to be arrested as can be accommodated in the existing prisons. For the time being only healthy men, not too old, are to be arrested. Upon their arrest, the appropriate concentration camps should be contacted immediately in order to confine them in these camps as fast as possible."

We now know from the evidence with regard to the seizure of the houses of Jews by Neurath and Rosenberg why the orders were to concentrate upon the richest.

1759 PS
US 420
12372

These events were neither secret nor hidden. Ministers were writing to each other and discussing them. Long before 1939 they were common knowledge not only to Germany but to the whole world. Every one of these defendants must have heard again and again stories similar to that of Sollman. Almost all of them have sought to gain credit from helping one or two Jews; and you will remember the evidence of a special office in Goering's Ministry to deal with protests, and his witness Koener who stated with pride that Goering had always intervened on behalf of individuals. Perhaps it afforded them some gratification or eased their consciences in some way occasionally to demonstrate their influence by exempting some individual who sought their favour from the general horror

H5156 - 0025

of the regime which they upheld. But these men participated in a Government which was conducted without any regard for human decency or established law. There is not one of them who, being a member of the Government during this period, has not got the blood of hundreds of his own countrymen on his hands.

Goering and Frick established the concentration camps;

10083 the witness Severing and the documents quoted testify to the murders which took place in them at a time when these two were

5852; 6066/7 directly responsible. Even Goering could not defend all the murders of the 30 June, 1934. He shares with Hess and Frick the responsibility for the Nuremberg laws. The record of the

1816 PS US 261 3051 PS US 240 meeting of the 12th November 1938 and Goering's initials on Heydrich's order of the 9th November require no comment.

As Ambassador in England, Ribbentrop must have been well aware of the facts, if only from the English papers, whilst

1816 PS US 261 6710 his delegate Woermann assented to the atrocities reported to the meeting of the 12th November 1938. The previous owner of his country house, Herr von Remiz was placed in a concentration camp, and he expressed his sentiments towards the Jews to M. Bonnet, on the 8th December 1938 in the following terms:

L 205 GD 157

> "The German Government had therefore decided to assimilate them (the Jews) with the criminal elements of the population. The property which they had acquired illegally would be taken from them. They would be forced to live in districts frequented by the criminal classes".

PS 1814 US 328 Hess, who set up an office for racial policy in 1933, shares responsibility for the Nuremberg decrees.

1816 PS US 261 At the meeting of 12th November a full report was given of similar measures against the Jews in Austria and it seems certain that the defendant Kaltenbrunner as a faithful member of the Party was giving full support to the necessary measures.

H5156 – 0026

3460 PS)
US 437)
1816 PS)
US 261)
S/N 11369)
2819 PS)
US 352)

The evidence that Seyss-Inquart was playing his part is before the Tribunal.

Rosenberg was writing "The Myth of the Twentieth Century" and taking his full share in the struggle against the Church and the Anti-Semitic policy of the Government: whilst even Raeder on Heroes' Day 1939 was speaking of

D 653)
GB 232)

> "the clear and inspiring summons to fight Bolshevism and International Jewry whose race-destroying activities we have sufficiently experienced on our own people".

Frick, as Minister of the Interior, bears a responsibility second to none for the horrors of the concentration camps and for the Gestapo, whilst Frank, as Minister of Justice for Bavaria, was presumably receiving the reports on the murders in Dachau.

3086

8085. 1516
2156 PS
US 263

He was the leading jurist of the Party, a member of the Central Committee which carried out the boycott of the Jews in March 1933 and spoke on the wireless in March 1934 justifying racial legislation and the elimination of hostile political organisations.

2536 PS
Dd DP V51
II
2457

He also was present at Goering's meeting.

The Tribunal will not require to be reminded of the part played by Streicher. It was in March 1938 that the Sturmer began consistently to advocate extermination, the first article of a series which was to continue throughout the next seven years, beginning with an article signed by him ending with the words:

D 802
GB 327

"We are approaching wonderful times - a Greater Germany without Jews".

Funk, as Vice President of the Reich Chamber for Culture from

3505 PS
US 653

1933 had participated in the elimination of the Jews; he was present and assented to the recommendations at Goering's meeting in 1938

1816 PS
US 261

at which it will be remembered Goering suggested that it would have been better to kill 200 Jews, whereupon Heydrich mentioned that in fact 35 had been accounted for.

8689
8699

Schacht himself admitted that as early as the second half of 1934 and the first half of 1935 he found that he was wrong in thinking that Hitler would bring the "Revolutionary" force of the Nazis into a regulated atmosphere, and that he discovered that Hitler having done

H5156 - 0027

done nothing to stop the excesses of individual Party members or Party groups, was pursuing a "policy of terror". Nevertheless he remained in office and accepted the Golden Party Badge in January 1937 when von Elz refused it.

EC.500
8863

Schirach has confirmed his part in ensuring that the younger generation of Germany grew up rabid anti-Semites under his teaching. He cannot escape responsibility for training the youth to bully Jews: to persecute the Church; to prepare for war. This perversion of children is perhaps the basest crime of all.

10294

Sauckel, who had joined the Party in 1921, filled the post of Gauleiter of Thuringia. He cannot have been ignorant of the persecution of the Church; of the Trades Unions, of other political parties and of the Jews, throughout this important Gau, and there is every reason to suppose that he gave the fullest support to these policies and thus enhanced his reputation with the Nazis.

2974 PS
US.15

Papen and Neurath were in a better position to judge these matters than any of the other defendants since it was their political associates who were being persecuted whilst, in the case of Papen, some of his own staff were killed and he himself arrested, he was lucky to escape with his life.

1180

Neurath's attitude to the Jews is shown by his speec in September 1933:

3893 PS
GB.514

> "The stupid talk about purely internal affairs, as for example the Jewish question, will quickly be silenced if one realises that the necessary cleaning up of public life must temporarily entail individual cases of personal hardship but that nevertheless it only served to establish all the more firmly the authority of justice and law in Germany."

Of the remainder, all were men of intelligence and already held positions of considerable authority. None of them can have been ignorant of what the whole world knew, yet not one of them has suggested that he made an effective protest against this regime of brutality and terror. All of these men continued in their spheres

H5156 - 0028

of government and in the highest positions of responsibility. Each in his part - and each a vital part - these men built up the evil thing, the ultimate purpose of which was so well known to them, and instilled the evil doctrines which were essential to the achievement of that purpose. It was Lord Acton - that great European - who, 80 years ago, inexpressing his conviction of the sanctity of human life, said:

> "The greatest crime is homicide. The accomplice is not better than the Assassin: the theorist is the worst."

Part III. The Crime against Peace.

I shall return later to the question of conspiracy and to the part these men played in it, but no conclusion upon the conspiracy charge in the first count of this Indictment is really possible until the specific crimes set out in the subsequent counts have been considered. And first of these is the crime against Peace, set out in Count 2. I say first, first in its place in the Indictment. Moralists may argue which is greatest in moral guilt. But this perhaps should be said at the very outset. It is said that there is no such crime as a crime against peace, and those superficial thinkers who, whether in this Court or elsewhere, have questioned the validity of these proceedings, have made much of this argument. Of its merits I shall say something presently. But let it be said plainly now, that these defendants are charged also as common murderers. That charge alone merits the imposition of the supreme penalty and the joinder of this crime against peace in the Indictment can add nothing to the penalty which may be imposed on these individuals. Is it, then, a mere work of supererrogation to have included this matter? We think not, for the very reason that more is at stake here than the fate of these individuals. It is the crime of war which is at once the object and the parent of the other crimes; the crimes against humanity, the war crimes, the common murders. These

H5156 - 0029

things occur when men embark on total war as an instrument of policy for aggressive ends.

Moreover, taking this crime in isolation, it was responsible for the deaths in battle of ten million men, and for bringing to the very edge of ruin the whole moral and material structure of our civilisation. Although it may add nothing to the penalty which may be imposed upon these men, it is a fundamental part of these proceedings to establish for all time that International Law has the power, inherent in its very nature, both to declare that a war is criminal, and to deal with those who aid and abet their States in its commission. I shall come back to the Law: let me first refer to the facts.

Whilst the German people were being prepared for war, the necessary measures of re-armament were taken simultaneously. At his conference on the 23rd November 1939, Hitler summed up this period of preparation as follows:-

789 PS
USA. 23

> "I had to reorganise everything beginning with the mass of the people extending it to the Armed Forces. First internal reorganisation, eradication of appearances of decay and of defeatist ideas, education to heroism. While reorganising internally, I undertook the second task to release Germany from its international ties..... secession from the League of Nations and denunciation of the Disarmament Conference..... After that the order for rearmament. In 1935 the introduction of compulsory armed service. After that militarisation of the Rhineland."

The conspirators set out first to get rid of the political restraints which prevented rearmament. In October 1933 Germany left the League of Nations and in March 1935 renounced the Armament Clauses of Versailles and informed the world of the establishment of an air force, of a large standing army, and of conscription. Already the Reich Defence Council had been set up and its Working Committee held its second meeting as early as 26th April 1933 with representatives from every department. It is difficult to believe that reading the minutes of these meetings, as they

EC.177
USA.390

H5156 - 0030

must have done, Neurath, Frick, Schacht, Goering, Raeder, Keitel and Jodl, the last two being generally present, can have supposed that the regime did not intend war.

2261 PS
USA. 24

On the economic side Schacht, already President of the Reichsbank and Minister of Economics, was made General Plenipotentiary for War Economy in May 1935. The appointment was to be a complete secret. His contribution is best expressed in his own words:-

EC.611
USA.622

> "It is possible that no bank of issue in peacetime carried on such a daring credit policy as the Reichsbank since the seizure of power by National Socialism. With the aid of this credit policy, however, Germany created an armament second to none and this armament in turn made possible the results of our policy."

EC.258
USA.625

Schacht's speech on 29th November 1938 is seen to be no boast when the report of his deputy, which has been put in evidence, is considered.

That report shows that under Schacht's guidance, 180,000 industrial plants had been surveyed as to usefulness for war purposes. Economic plans for the production of 200 basic materials had been worked out. A system for the letting of war contracts had been revised, allocationsof coal, motor fuel and power had been determined, RM.248,000,000 had been spent on storage facilities alone, evacuation plans for skilled workers and war materials from military zones had been worked out; 80,000,000 wartime ration cards had already been printed and distributed to local areas and a card index on the skill of some 20,000,000 workers had been prepared.

The most detailed and thorough preparations which that report sets out were not made without the knowledge of every member of the government and no more graphic illustration of the common purpose and awareness of the aim which permeated all departments of the State is to be found than the second meeting of the Reich Defence Council itself held on 25th June 1939, under the presidency of the defendant Goering, the head of the 4-year plan. The defendants Frick, Funk, Keitel and Raeder were present

H5156 - 0031

and Hess and Ribbentrop were represented. The methodical detail in the plans which were being worked out; the preparations in respect of manpower involving the use of concentration camp workers and the unfortunate slaves of the protectorate are eloquent testimonies of the size of the struggle upon which these men knew that Germany was about to embark.

The major share in rearmament must be attributed to the defendants Goering, Schacht, Raeder, Keitel and Jodl, but the others played their part, each in his sphere. Rosenberg, Schirach and Streicher in education, Doenitz in the preparation of the U-boat fleet, Neurath and Ribbentrop in the field of foreign affairs.

2194 PS
USA.36

Funk and Fritzsche were reorganizing propaganda and news systems until the former succeeded Schacht and became Minister of Economics and in September 1938 General Plenipotentiary for Economics. As Plenipotentiary Funk was charged with ensuring the economic conditions for the production of the armament industry, according to the requirements of the High Command. Frick as Plenipotentiary for the Reich administration, with Funk and Keitel, formed the three-man college planning preparations and decrees in case of war.

2978 PS
USA.8

It is unnecessary in assessing this work of rearmament to do more by way of summary than to quote the words of Hitler himself in the memorandum which Jodl described as written during two nights of work by the Fuehrer personally and which he sent to the defendants Raeder, Goering and Keitel. In this memorandum of 9th October 1939, Hitler disposes of the evidence of these defendants that Germany was never adequately prepared for war.

11033

H5156 - 0032

L.52
USA.540

> "The military application of our peoples strength has been carried through to such an extent that within a short time at any rate it cannot be markedly improved upon by any manner of effort."

and again:

> "The warlike equipment of the German people is at present larger in quantity and better in quality for a great number of German divisions, than in the year 1914. The weapons themselves, taking a substantial cross section, are more modern than is the case with any other country in the world at this time. They have just proved their supreme war-worthiness in a victorious campaign. In the case of the armaments of other countries this has yet to be demonstrated. In some arms Germany today possesses clear indisputable superiority of weapons."

And then, speaking of the ammunition available after the conclusion of the Polish campaign:

> "There is no evidence available to show that any country in the world disposes of a better total ammunition stock than the German Reich..... The Air Force at present is numerically the strongest in the world..... The AA artillery is not equalled by any country in the world."

This, then, was the practical result of six years of intensive rearmement carried out at the expense and with the knowledge of the whole people.

Meanwhile, Youth of Germany was educated

educated and drilled in semi-military formations for war and then, on reaching the age for conscription, called up for intensive training. This was going on throughout the Reich, together with the enormous work of economic preparation. Is it to be believed that any one of these men did not guess the purpose of this terrific effort?

If, indeed, any of them was in doubt, the successful actions in which, to use the words of one of Neurath's witnesses, "the Nazis were able to reap cheap laurels without war through the successfully practised tactics of bluff and sudden surprise," must have opened their eyes.

N.Bk.1 P.30

The first step was the Rhineland and the technique became the model for each subsequent move. On 21st May, 1935, Hitler gave a solemn assurance that the stipulations of Versailles and Locarno were being observed. Yet three weeks earlier on the very day of the conclusion of the Franco-Soviet pact, later to become the official excuse for the re-occupation and the defence before this Tribunal, the first directive had been issued to the Service Chiefs. The defendant Jodl having perhaps noted the significance of the date, has sought to persuade the Tribunal that his first admission that "Operation Schulung" referred to the reoccupation of the Rhineland was wrong, and that it applied to some military excursion in the Tyrol.

EC 405 GB 160

11123

Yet on 26th June, he himself was addressing the Working Committee of the Reich Defence Council on the plans for reoccupation and revealing that weapons, equipment insignia and field grey uniforms were being stored in the zone under conditions of the greatest secrecy. Can anyone who reads his words doubt that this process had been going on for at least seven weeks?

EC 405 GB 160

Any representative of the innumerable departments who attended that meeting and Heard Jodl's remarks on the 26th June 1935 or who subsequently read the minutes, knew what to expect. On 2nd March the final orders were given and passed to the Navy four days later. The defendants Keitel, Jodl, Raeder, Frick, Schacht and Goering were all involved in the necessary executive action and, if his

C 159 USA 54 C 194 USA 55.

H5156 - 0033

H5156 - 0034

U-Boats complied with the instruction of the 6th March, the defendant Doenitz, also.

From the beginning, at every stage you see the common plan worked out - and worked out as it could only be if these men each played his allotted part. First the period of apparent quiet, during which treaties are concluded, assurances given and protestations of friendship made while beneath the surface the Auslands organization under Hess and Rosenberg begins to undermine and disrupt. The victim is deceived by open promises and weakened by underhand methods. Next, the decision to attack is taken and military preparations are hastened. If the victim shows signs of suspicion, the assurances of friendship are redoubled.

Meanwhile, the finishing touches are put to the work accomplished by the Fifth Column. Then when all is prepared, what Hitler called "the propagandist cause for starting the war" is chosen, frontier incidents perhaps are faked, abuse and threats take pl ce of fair words and everything is done to terrify the victim into submission. Finally, the blow is struck without warning.

The plan varies in detail from case to case, but essentially it is the same, the perfect example repeated again and again, of treachery, intimidation, murder.

H5156 - 0035

The next step was Austria. First the Nazis arranged the murder of Dolfuss in 1934. After the evidence in the case of the defendant Neurath, there can be little doubt that his assassination was plotted in Berlin and arranged by Habicht and Hitler some six weeks before. The failure of this putsch made it necessary to temporize and accordingly in May 1935 Hitler gave a complete assurance to Austria. At the same time the defendant Papen was sent to undermine the Austrian Government. With the occupation of the Rhineland Austria was next on the programme but Hitler was still not yet ready, hence the solemn agreement of July 1936. By the autumn of 1937 Papen's reports showed progress and accordingly the plot was divulged at the Hosbach meeting. A slight delay was necessary for the removal of the refractory Army leaders, but in February, 1938, Papen having completed his plotting with Seyss-Inquart, Schuschnigg was lured to Berchtesgarden and bullied by Hitler, Ribbentrop and Keitel. Shortly afterwards the final scene took place, Goering played his part in Berlin. The defendants Goering, Hess, Keitel, Jodl, Raeder, Frick, Schacht, Papen and Neurath were all aware of this Austrian plot, Neurath and Papen from the very beginning.

TC 26
GB 19

TC 22
GB 20

386 PS
USA 25

With the exception of Goering, each has attempted to put forward a defence of ignorance which cannot be regarded as other than ludicrous in the light of the documents. Not one of them has suggested that he protested and all of them remained in office thereafter.

H5156 - 0036

Already the plan for Czechoslovakia was ready: it had been discussed at the Hosbach meeting in November 1937; within three weeks of the Munich agreement the directive to prepare the march in had been given and on the 15th March 1939, President Hacha having been duly bullied by Hitler, Ribbentrop, Goering, and Keitel, Prague was occupied and the Protectorate established by Frick and Neurath. You will remember the astonishing admission by Goering that although he certainly threatened to bomb Prague he never really intended to do it. Ribbentrop also seems to have considered that in diplomacy any lie is permissable.

S/N 5900

S/N 6984

The stage was now set for Poland.

As Jodl explained:

> "The solution of the Czech conflict and the annexation of Czechoslovakia rounded off the territory of greater Germany so that it was possible to consider the Polish problem on a basis of more or less favourable strategic premises."

L 172
(US 34)

And now the time had come when, to use Hitler's words:-

> "Germany must reckon with its two hateful enemies, England and France."

386 PS
(USA 25)

And accordingly followed the policy laid down by Ribbentrop in January 1938,

> "the formation in great secrecy but with wholehearted tenacity of a coalition against England".

TC 75
GD 28

In the case of Poland, however, the German Foreign Office had already advised Ribbentrop as long ago as a month before Munich in the following terms:-

> "It is unavoidable that the German departure from the problems of victories in the south east and their transfer to the east and north east must make the Poles sit up. The fact is that after the liquidation of the Czech question it will be generally assumed that Poland will be the next in turn. But the later this assumption sinks in in international politics as a firm factor the better. In this sense, however, it is important for the time being to carry on German policy under the well-known and proved slogans of the right to autonomy and racial unity. Anything else might be interpreted as pure imperialism on our part and create resistance to our plan by the Entente at an earlier date and more energetically than our Forces could stand up to."

TC 76
GD 31

In this case, therefore, the usual assurances were reduplicated and again and again Hitler and Ribbentrop made the most explicit statements. Meanwhile the usual steps were taken, and following

H5156 - 0037

the meeting of the 23rd May 1939 which Raeder described as an academic lecture on war the final military economic and political preparations for war against Poland were taken and in due time war was commenced.

L 79
(USA 27)
S/N 9661/2

1014 PS
(USA 30)

> "The victor shall not be asked later on whether we were telling the truth or not. In starting and making a war, not the right is what matters but victory".

Those were Hitler's words, but these men echoed and implemented them at every stage. Step by step the conspirators had reached the crucial stage and had launched Germany upon an attempt to dominate Europe and involve the world in untold horror. Not one of these men had turned against the regime. Not one of them except Schacht - to whose vital contribution to the creation of the Nazi monster I shall return later - had resigned and even he continued to lend his name to the Nazi Government.

The course of the war soon shewed that Germany's military aims and the interests of her strategy would be improved by further aggression. I do not propose to take time now by tracing again the various steps. As Hitler said at the meeting in November, 1939:

789 PS
(USA 23).

> "...Breach of the neutrality of Belgium and Holland is meaningless. No one will question that when we have won we shall not bring about a breach of neutrality as in 1914."

Norway and Denmark were invaded. No kind of excuse, then or now, was put forward for the occupation of Denmark, but a strenuous attempt has been made in the course of this trial to suggest that Norway was invaded only because the Germans believed that the Allies were about to take a similar step. Even if it were true, it would be no answer, but the German documents completely dispose of the suggestion that it was for such a reason that the Germans violated Norwegian neutrality.

H5156 - 0038

Hitler, Goering and Raeder had agreed as early as November 1934 that

C 190
(S. 45

> "no war could be carried on if the Navy was not able to safeguard the ore imports from Scandinavia".

TC 24)
GB 77)
TC 30)
GB 78)
(28 Apr. 38)
TC 31)
GB 79)
(2 Sep. 39)
TC 32)
GB 80)
(6 Oct 39)

Accordingly, as the European struggle drew near, a Non-Aggression Pact was made with Denmark on the 31st May 1939 following the usual assurances to both Norway and Denmark which had already been given a month earlier. At the outbreak of the war a further assurance was made to Norway, followed by another on the 6th October. On the 6th September, 4 days after his assurance, Hitler was discussing with Raeder the Scandinavian problem and his political intentions in regard to the Nordic States, which are expressed in Admiral Assman's diary as:-

D 875

> "a north Germanic community with limited sovereignty in close dependence on Germany".

On October 9th, three days after his most recent assurance, in his memorandum for the information of Raeder, Goering and Keitel, Hitler was writing of the great danger of the Allies blocking the exit for U-boats between Norway and the Shetlands and of the consequent importance of

L 52
USA 540

> "the creation of U-boat strongpoints outside these constricted home bases".

C 5
GB 83
C 122

It is significant that the very next day Doenitz submitted a report on the comparative advantages of the different Norwegian bases, having discussed the matter with Raeder some six days before. The strategic advantages were apparent to all these men and the hollowness of the defence that the invasion of Norway was decided upon because it was believed that the Allies were going to invade is completely exposed when you consider the statement in Hitler's memorandum preceding the passage I have just quoted that:

L 52
US 540

> "Provided no completely unforeseen factors appear their neutrality in the future is also to be assured. The continuation of German trade with these countries appears possible even in a war of long duration."

Rosenberg and Goering's deputy, Koerner, had been in touch with Quisling and Hagelin as early as June and it is clear from

H5156 - 0039

004 PS
GB 140

Rosenberg's subsequent report that Hitler had been kept fully informed. In December the time for planning had arrived and

C 66
GB 81

the decision to prepare for invasion was accordingly taken at a meeting between Hitler and Raeder. It was not long before Keitel and Jodl issued the necessary directives and in due course and as necessary Goering, Doenitz and Ribbentrop were involved.

On the 9th October, as I have already said, Hitler was confident that there was no danger to the Nordic States from the Allies. All the alleged intelligence reports contain no information which comes within miles of justifying an anticipatory invasion based - it is laughable - on the doctrine of self-preservation.

D 881
GB 475

It is true that in February 1940 Raeder pointed out to him that if England occupied Norway the whole Swedish supply of ore to Germany would be endangered but on the 26th March he advised that the Russo-Finnish conflict having ceased, the danger of an Allied landing was no longer considered serious and suggested that the invasion, for which all the directives had been issued, should take place at the next new moon, on the 7th April. It is

R 81
9973-8

interesting to note that Raeder's own war diary signed by himself and his Chief of Staff Operations records a similar opinion four days earlier. If further evidence were needed to show that the actual step was taken regardless of any risk of interference from

D 843)
GB 466)

the West, it is to be found in telegrams from the German Ministers

D 844)
GB 467)

at both Oslo and Stockholm and from the German Military Attache

D 845)
GB 468)

at the latter capitol, advising the German Government that, far from being worried over invasion by the British, the Scandinavian Governments were apprehensive that it was the Germans who intended to invade. Perhaps Jodl's comment in his diary for March that Hitler

"is still looking for an excuse"

with Raeder's lame explanation that this refers to the text of the diplomatic note which would have to be sent and Ribbentrop's assertion that he was informed of the invasion only a day or so before it was to take place are as conclusive as anything else of the dishonesty of this defence. Once again all these men in their

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different spheres were playing their appointed part, notably, of course, Rosenberg, who paved the way, Goering, Raeder, Keitel, Jodl and Ribbentrop who took the necessary executive action. Not one of them protested: even Fritzsche's only defence is that he was not told until a very late stage when he was as usual required to broadcast. He does not suggest that he protested. Once again, a completely ruthless invasion of two countries was undertaken in breach of every treaty and assurance, solely because it was strategically desirable to have Norwegian bases and secure Scandinavian ore.

And so it went on: Yugoslavia, her fate settled before the war, Greece. And then Soviet Russia. The German Soviet Pact of the 23rd August 1939 paved the way: the complete worthlessness of a Ribbentrop signature is made clear by Hitler's memorandum six weeks later, where he remarked:

L 52
USA 540

> "The trifling significance of treaties of agreement has been proved on all sides in recent years."

By the 18th December, 1940, it must have become apparent that the German hope of overcoming the resistance of Great Britain - then and for many months holding the fort of freedom and democracy alone against an enemy never more powerful than at that time - were vain, and so the first directive was issued for an attack in another direction - against Soviet Russia. It is indeed true - and it is interesting - that on this occasion a number of the Defendants did make some objection. Little Norway might be violated without protest: there was no danger there. There was happy acquiescence in the rape of the gallant Netherlands, of Belgium. But here was an enemy which might strike fear in the heart of the bully. The Defendants objected, of course, on purely military grounds, although Raeder does say that he was influenced by the moral wrong which breach of the German Soviet treaty would involve. It is for you to say. These moral scruples which ought so properly to have manifested themselves on countless other occasions are only previously recorded when one of his officers wished to marry a lady of doubtful reputation. The truth is that some of these men were beginning to become apprehensive. Great Britain's resistance had already made them think. Was Hitler now taking on another enemy whom he could not defeat? Once the decision was taken, however, everyone of them set to work to play his part with his usual disregard for all laws of morality or even decency.

PS 446 (USA 31)

S/N 9365/6

In no single case did a declaration of war precede military action. How many thousands of innocent and inoffensive men, women and children, sleeping in their beds in the happy belief that their country was and would remain at Peace, were suddenly blown into eternity by death dropped on them without warning from the skies. In what respect does the guilt of any one of these men differ from the common murderer creeping stealthily to do his victims to death in order that he may rob them of their belongings?

In every single case, as the documents make clear, this was the common plan. The attack must be "blitzartig schnell" - without warning: with the speed of lightning: Austria; Czechoslovakia;

386 PS (USA 25)

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Poland - Doéntiz repeating Keitel's directive for "heavy blows" struck by surprise". Norway Denmark, Belgium, Holland, Russia.

As Hitler had said in the presence of a number of these men:

C 126 C
GB 45

"Considerations of right or wrong or treaties do not enter into the matter".

The killing of combatants in war is justifiable both in International and in Municipal law, only where the war itself is legal. But where a war is illegal, as a war started not only in breach of the Pact of Paris but without any sort of warning or declaration clearly is, there is nothing to justify thekilling, and these murders are not to be distinguished from those of any other lawless robber bands.

Everyone of these men know of these plans at one stage or another in their development. Everyone of them acquiesced in this technique, knowing full well what it must represent in terms of human life. How can anyone of them now say he was not a party to common murder in its most ruthless form?

Aggressive War:
The legal position. But I am dealing now not with the murders which alone so well justify the condemnation of these men but with their crime against Peace. Let me say something about the legal aspect of this matter for it is one to the firm establishment of which His Majesty's Government attach great importance.

The speech for the defence was free of ambiguity. The effect was that though the Kellogg-Briand Pact and the other international declarations and treaties rendered aggressive war illegal, they did not make it criminal. In support of this contention it was argued that they could not have done so any such attempt to make aggressive war a crime would be contrary to the sovereignty of States and that in any event the entire system of prohibition of war had collapsed before the outbreak of the Second World War and therefore ceased to be law: it was further argued that these treaties were not taken seriously by numerous Jurists and Journalists and were not really entitled to be treated seriously because they contained no provision for coping with the problem of the peaceful change of

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the status quo. With regard to the Pact of Paris itself, counsel contended that there could be no question of a criminal - or even unlawful - breach of that Pact of Paris because it left to each State, including Germany, the right to determine whether it was entitled to go to war in self-defence. Finally it was suggested that the State could not become the subject of criminal responsibility and that, if that proposition were not admitted, the crime was one of the German State and not of individual members of it because in the German State which launched that war upon the world there were no individual wills but only one sovereign, uncontrolled and final will - that of the Dictator.

It might be enough for me to say that this entire line of argument is beside the point and cannot be heard in this Court since it is in contradiction to the Charter. For the Charter lays down expressly that the planning, and I emphasize the word "planning", preparation, initiation, or waging of a war of aggression or of a war in violation of international treaties, agreements, or assurances shall be considered crimes coming within the jurisdiction of the Tribunal. It would appear, therefore, that the only way in which the accused can escape liability is to show to the satisfaction of the Tribunal that these wars were not wars of aggression or in violation of treaties. They have not done that. That being so, what is the purpose of the argument which has been advanced in their behalf? Is it to deny the jurisdiction of this Tribunal in this matter. Or, what is more probable, is it a political appeal to some outside audience which may be easily impressed by the complaint that the accused are being made the object of post factum legislation?

Whatever its object, it is important that the argument should not go unchallenged. I am anxious not to take up time by repeating what I said in my opening statement on the change effected in the position of war in international law as the result of the long series of treaties, in particular the General Treaty for the Renunciation of War. I have submitted that that Treaty, one of the most generally signed international

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treaties, established a rule of international law with a

international law; that the profound change which it produced (although indeed the distinction between just and unjust wars had been recognized in mediaeval times) was reflected in weighty pronouncements of governments and statesmen; that it rendered illegal recourse to war in violation of the Treaty; and that there is no difference between illegality and criminality in a breach of law involving the deaths of millions and a direct attack on the very foundations of civilised life. Nor do I propose to take time by answering in detail the strange chain of legal argument put forward by the defence, such as that the Treaty had no effect attributed to it by its signatories on the ground that it was received in some quarters with disbelief or cynicism.

Even more curious, to ordinary legal thinking, is the reasoning that in any case that Treaty - and the other Treaties and assurances which followed it - ceased to be legally binding by 1939 because by that time the entire system of collective security had collapsed. The fact that the United States declared its neutrality in 1939 was cited as an example of the collapse of the system, as if the United States has been under any legal obligation to act otherwide. But what is the relevance of the fact that the system devised to enforce these treaties and to prevent and to penalise criminal recourse to war failed to work? Did the aggressions of Japan and Italy, the other States in the Axis conspiracy, followed by the German aggressions against Austria and Czechoslovakia, deprive these obligations of their binding effect b e c a u s e those crimes achieved a temporary success? Since when has the civilized world accepted the principle that the temporary impunity of the criminal not only deprives the law of its binding force but legalises his crime?

It will be noted, incidentally, that in the case both of the Japanese and Italian aggessions the Council and the Assembly of the League of Nations denounced these acts as violations both of the Covenant and of the General Treaty for the Renunciation

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of War and that in both cases sanctions were decreed. It may be that the policeman did not act as effectively as one could have wished them to act. But that was a failure of the policeman not of the law.

But not content with the remarkable suggestion that by their very

aggressions, because of the reluctance of the peave loving States to take arms against the blackmail and the bullying which was directed against them, the aggressors had abrogated the law against aggression, the Defendants have introduced some question of self-defence. They have not indeed suggested that these wars were defensive wars. Not even Goebbels in his wildest extravagances went so far as that. It appears that what they seek to say is not that their wars were wars in self-defence, but that since the Pact of Paris not only left intact the right of States to defend themselves but also the sovereign right of each State to determine whether recourse to war in self-defence was justified in the circumstances, it did not in fact contain any legal obligation at all. That is a wholly fallacious argument. It is true that in the declarations preceding and accompanying the signature and the ratification of the Pact of Paris self-defence was not only recognised as an inherent and inalienable right of the parties to the Treaty but its signatories reserved for themselves the exclusive right of judging whether circumstances called for the exercise of that right.

The question is whether this reservation of self-defence destroyed the purpose and the legal value of the Treaty? If Germany was entitled to have recourse to war in self-defence and if she was free to determine in what circumstances she was permitted to exercise the right of self-defence, can she ever be considered to have violated the solemn obligation of the Treaty? That question Counsel for the Defence sought to answer in the negative. But that answer amounts to an assertion that that solemn Treaty subscribed to by more than sixty nations is a scrap of paper devoid of meaning. It would result in this - that every prohibition or limitation of the right of war is a nullity if it expressly provides for the right of self-defence. The Tribunal will emphatically consign that parody of legal reasoning to where it properly belongs.

Neither the Pact of Paris nor any other treaty was intended to - or could - take away the right of self-defence. Nor did it deprive its signatories of the right to determine, in the first

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instance, whether there was danger in delay and whether immediate action to defend themselves was imperative. That is meaning of the express proviso that each State judges whether action in self-defence is necessary. But that does not mean that the State thus acting is the ultimate judge of the propriety and of the legality of its conduct. It acts at its peril. Just as the individual is answerable for the exercise of his common law right of defence, so the State is answerable if it abuses its discretion, if it transforms "self-defence" into an instrument of conquest and lawlessness, if it twists the natural right of self-defence into a weapon of predatory aggrandizement and lust. The ultimate decision as to the lawfulness of action claimed to be taken in self-defence does not lie with the State concerned. For this reason the right of self-defence, whether expressly reserved or implied, does not impair the capacity of a treaty to create legal obligations.

Under the Covenant of the League Japan was entitled to decide in the first instance, whether events in Manchuria justified resort to force in self-defence. But it was left to an impartial body of enquiry to find, as it did find, that there was in fact no justification for action in self-defence. To mention a more recent example, Article 51 of the Charter of the United Nations lays down that nothing in the Charter shall impair the inherent right of individual or collective self-defence in case of an armed attack. But it expressly leaves to the Security Council the power of ultimate action and determination. It is to be hoped that the judgment of this Tribunal will discourage, with appropriate finality, any future reliance on the argument that because a treaty reserves for the signatories the right of action in self-defence it becomes, for that reason, incapable of imposing upon the signatories any effective legal obligation.

Sovereignty and the State.

I will now turn to the argument that the notion of criminal responsibility is incompatible with the idea of national sovereignty. A state may, Professor Jahrreis concedes, commit an offence against International Law, but he contends that to make it criminally responsible and punishable would be to deny the sovereignty of the State.

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It is strange to see the accused, who in their capacity as the German Government overran most of the States of Europe, who trampled brutally upon their sovereign independence, and who, with boastful and swaggering cynicism, made the sovereignty of the conquered States / subservient to the new conception of the "Grossraumsordnung" - it is strange to see these defendants appealing to the mystic virtues of the sanctity of State sovereignty. It is not less remarkable to find them invoking orthodox international law to protect the defeated German State and its rulers from just punishment at the hands of the victorious Powers. But there is no rule of international law which they can call in aid in this regard.

In a sense these proceedings are not concerned with punishing the German State. They are concerned with the punishment of individuals. But it might seem strange if individuals were criminally responsible for the acts of the State if such acts were not themselves crimes. There is no substance at all in the view that international law rules out the criminal responsibility of States and that since, because of their sovereignty, States cannot be coerced, all their acts are legal. Legal purists may contend that nothing is law which is not imposed from above by a sovereign body having power to compel obedience. That idea of the analytical jurists has never been applicable to international law. If it had, the undoubted obligation of States in matters of contract and tort could not exist.

It may be true that in international relationships prior to the war there was no super sovereign body which at the same time imposed international laws and enforced them. But, at least in the international field, the existence of law has never been dependent on the existence of a correlated sanction external to the law itself. International law has always been based on the element of common consent and where you have a body of rules which by common consent are obligatory upon the members of the international community those rules are the laws of that community although the consent has not been obtained by force and although there may be no direct external

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sanction to secure obedience. The fact is that absolute sovereignty in the old sense is, very fortunately, a thing of the past. It is a conception which is quite inconsistent with the binding force of any international treaty.

In the course of the work of the Permanent Court of International Justice it became a stock argument to rely on State sovereignty in support of the opinion that, as States are sovereign, treaty obligations entered into by them ought to be interpreted restrictively. The Court consistently discouraged that view. In its very first judgment - a judgment given against Germany in The Wimbledon case - it rejected the plea of sovereignty as a reason for the restrictive interpretation of obligations in treaties. The Court declined to see

in a treaty, by which a State undertakes to observe a definite line of conduct, an abandonment of its sovereignty. The Court reminded Germany that the very right to enter into international engagement is an attribute of State sovereignty. As a philosophical proposition the right to contract and the right to freedom of action do present an eternal antinomy. But the view that since States are sovereign they cannot be coerced has long ago been abandoned. The Covenant of the League of Nations made provision, in Article 16, for sanctions against sovereign States - sanctions being only another name for coercion, probably coercion of a punitive character. The Charter of the United Nations has followed suit - much more decisively. It is true that because of the absence of a competent compulsory jurisdiction, there is no judicial precedent for States being arraigned before a Criminal Tribunal. But for that reason to deny criminal responsibility is to suggest that there is equally no contractual liability, for apart from treaty there is no compulsory jurisdiction in any International Tribunal to adjucate on ordinary disputes between States. The first man tried for murder may have complained that no Court had tried such a case before. The methods of procedure, the specific punishments, the

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appropriate Courts, can always be defined by subsequent proclamation. The only innovation which this Charter has introduced is to provide machinery, long overdue, to carry out the existing law. There is no substance in the complaint that the Charter is a piece of post factum legislation either in declaring wars of aggression to be criminal or in assuming that the State is not immune from criminal responsibility.

But then it is argued, even if the State is liable, it is only the State and not the individual who can be made responsible under international law. That argument is put in several ways. States only, it is said, and not individuals, are the subject of international law. But there is no such principle of international law. One need only mention the case of Piracy or Breach of Blockade or the case of Spies to see that there are numerous examples of duties being imposed by International Law directly upon individuals. War Crimes have always been recognised as bringing individuals within the scope of international law. In England and the United States our Courts have invariably acted on the view that the accepted customary rules of the Law of Nations are binding upon the subject and the citizen The position is essentially the same in most countries. In Germany itself Article 4 of the Weimar Constitution laid it down that generally recognised rules of international law must be regarded as an integral part of German Federal Law. What does all this mean in effect save that the rules of international law are binding upon individuals? Shall we depart from that principle merely because we are here concerned with the gravest offence of all - crimes against the peace of Nations and the crimes against humanity. The law is a living growing thing. In no other sphere is it more necessary to affirm that the rights and duties of States are the rights and duties of men and that unless they bind individuals they bind no one. It is a startling proposition that those who aid and abet, who counsel and procure the commission of a crime are themselves immune from responsibility. The international crime does not differ from the municipal offence in this respect.

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The argument is then put in another way. Where the act concerned is an act of State those who carry it out as the instruments of the State are not personally responsible and they are entitled, it is claimed, to shelter themselves behind the sovereignty of the State. It is not suggested that this argument has any application to war crimes and as we submit each of these men to be guilty of countless war crimes it might be enough to brush the matter aside as academic. That course would diminish the value which these proceedings will have on the subsequent development of international law. Now it is true that there is a series of decisions in which Courts have affirmed that one State has no authority over another sovereign State or over its Head or representative. These decisions have been based on the precepts of the comity of nations and of peaceful and smooth international intercourse: they do not in truth depend upon any sacrosanctity of foreign sovereignty except in so far as the recognition of sovereignty in itself promotes international relations. They really afford no authority for the proposition that those who constitute the organs of the corporate State are entitled to shelter behind the metaphysical entity which they create and control when, by their directions that State sets out to destroy that very comity on which the rules of international law depends. Suppose a State were to send a body of persons into the territory of another State with instructions to murder and rob. Would those persons be immune because in the fulfilment of their criminal design they were acting as the organs of another State. Suppose the individuals who had ordered the predatory expedition were to fall into the hands of the State attacked - could they plead immunity. In my submission clearly not. Yet the case put is exactly that which occurred here. The truth is that this attempt to clothe crime with impunity because the motive was political rather than personal invokes no principle of law but is based on political doctrines more appropriate to the sphere of power politics than to that in which the rule of law prevails.

Finally it is said that these wretched men were powerless instruments in Hitler's hands, ordered to do that which

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reluctantly, or so they say, they did. Defence of superior orders is excluded by the Charter although Article 8 provides that it may be considered in mitigation of punishment, if the Tribunal thinks that justice so requires. But the Charter no more than declares the law. For there is no rule of International Law which provides immunity for those who obey orders which - whether legal or not in the country where they are issued - are manifestly contrary to the very law of nature from which international law has grown. If international law is to be applied at all, it must be superior to municipal law in this respect, that it must consider the legality of what is done by international and not municipal tests. By every test of international law, of common conscience, of elementary humanity, these orders - if indeed it was in obedience to orders that these men acted - were illegal. Are they then to be excused?

The dictatorship behind which these men seek to shelter was of their own creation. In the desire to secure power and position for themselves they built up the system under which they received their orders. The continuance of that system depended on their continued support. Even if it were true that - as Jodl suggested - these men might have been dismissed, perhaps imprisoned, had they disobeyed the orders which they were given, would not any fate have been better than that they should lend themselves to these things? But it was not true. These were the men in the inner councils; the men who planned as well as carried out; of all people the ones who might have advised, restrained, halted Hitler instead of encouraging him in his satanic courses. The principle of collective responsibility of the members of a government is not an artificial doctrine of constitutional law. It is an essential protection of the rights of man and the community of nations; international law is fully entitled to protect its own existence by giving effect to it.

Let me now pass to Counts 3 and 4 of the Indictment, the Counts dealing with war crimes and what we have described as in

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fact they are, as crimes against humanity.

War Crimes: The Legal Position

And as to these, may I first make some comment on the legal position. About the law as to war crimes, little indeed need be said, for the law is clear enough. Here are crimes more terrible indeed in their extent than anything which had hitherto been known, but none the less well recognizable under the pre-existing rules of International Law and clearly within the legitimate jurisdiction either of a National or of an International Tribunal. There is no element of retroactivity here, no question of post factum law making, nor is there any shadow of novelty in the decision of the Charter that those who shared the ultimate responsibility for these frightful deeds should bear individual responsibility. It is true that the lawyers and statesmen who at The Hague and elsewhere in days gone by built up the code of rules and the established customs by which the world has sought to mitigate the brutality of war and to protect from its most extreme harshness those who were passive non-combatants never dreamed of such wholesale and widespread slaughter. But murder does not cease to be murder merely because the

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victims are multiplied ten million fold. These crimes were many and manifold. It is not useful to catalogue them here. They vary most considerably in the numbers of victims. There are the fifty murdered prisoners of war who escaped from Stalag Luft III; the hundreds of Commandos and Airmen put to death; there are the thousands of civilian hostages put to death; the tens of thousands of sailors and passengers who perished in a piratical campaign of terror; there are the hundreds of thousands of prisoners of war, especially Russians, and of civilians who met their death because of the rigours and cruelties to which they were exposed, if not by outright murder, and there are the many millions murdered outright, or by the slower method of deliberate starvation, six millions of them for no better reason than that they were of Jewish race or faith.

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The mere number of victims is not the real criterion of the criminality of an act. The majesty of death, the compassion for the innocent, the horror and detestation of the ignominy inflicted upon man created in the image of God - these are not the subjects of mathematical calculation. None the less, somehow, numbers are relevant. For we are not dealing here with the occasional atrocities which are an incident in any war. It may be that war develops the good things in men: it certainly brings out the worst. It is not a game of cricket. In any war, in this war no doubt there have been - and no doubt on both sides - numbers of brutalities and atrocities. They must have seemed terrible enough to those against whom they were committed. I do not excuse or belittle them. But they were casual, unorganised and individual acts. We are dealing here with something entirely different. With systematic, wholesale, consistent action, taken as a matter of deliberate calculation at the highest level. And so the principal war crime in extent as in intensity with which these men are charged is the violation of the most firmly established and least controversial of all the rules of warfare, namely, that noncombatants must not be made the direct object of hostile operations. What a mockery the Germans sought to make of the IV Hague Convention on the laws and customs of war - which merely formulated what was already a fundamental rule:

> "Family honour and rights, the lives of persons and private property, as well as religious convictions and practices, must be respected."

The murdering on the orders of the German Government whose members are here in the Dock, in the territory occupied by its military forces, of millions of civilians, whether it was done in pursuance of a policy of racial extermination, as the result of or in connection with the deportation of slave labour, in consequence of the desire to do away with the intellectual and political leaders of the countries which had been occupied or was part of the general application of terror through collective reprisals upon the innocent population and upon hostages - this murdering

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of millions of non-combatants is a war crime. It may indeed be crime against humanity as well. Both imagination and intellect, shattered by the horror of these things, recoil from putting the greatest crime in history into the cold formula already described in the text books as a war crime. Yet it is important to remember that that is what these crimes were. Irrespective, in the main of where they were committed or of the race or nationality of the victims, these were offences upon the civilian population, contrary to the laws of war in general and to those of belligerent occupation in particular. The truth is that murder, wholesale, planned and systematic became part and parcel of a firmly entrenched and apparantly secure belligerent occupation. That that was a war crime no one has sought to dispute.

But some attempt has been made to canvass the illegality of three other classes of action with which also these men stand charged. Deportation to Germany for forced labour; the crimes at sea in connection with submarine warfare, and the shooting of Commandos. Let me shortly examine these matters.

Deportation. The deportation of the civilian population for forced labour is, of course, a crime both according to international custom and to conventional international law as expressed in the Hague Convention. Article 46 of Hague Convention No. IV enjoins the occupant to respect "family honour and rights" and "the lives of persons". Article 52 of the same Convention lays down that "services shall not be demanded from municipalities or inhabitants except for the needs of the army of occupation" and that "they shall be in proportion to the resources of the country and of such a nature as not to involve the population in the obligation of taking part in the operations of war against the country." With these simple and categorical provisions we have to contrast the staggering dimensions of the operation which the defendant Sauckel directed and in which other defendants participated, the ruthlessness with which peaceful citizens were torn from their families, surroundings and employment, the manner in which they were transported, the treatment which they received

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on arrival, the conditions in which they worked and died in thousands and tens of thousands, and the kind of work which they were compelled to perform as direct helpers in the production of arms, munitions and other instruments of war against their own country.

It seems to have been suggested that the prohibition of the Law of Nations had in some way become obsolete in the face of the modern development of totalitarian war requiring the vastest possible use and exploitation of the material and labour resources of the occupied territory. I confess I do not understand how the extent of the activities a belligerent imposes on himself, the size of the effort he needs to make in order to avoid defeat, can enlarge his rights against peaceful non-combatants or enable him to brush aside the rules of war. We cannot make these post factum repeals of International Law in favour of the law breakers.

Nor is there a shadow of a right to invoke any material change in conditions as a justification for their crimes at sea - crimes which cost the lives of thirty thousand British seamen alone. We need not base our case here on the mere violation of the customary rules of warfare as embodied in the London Protocols of 1930 and 1936, fully subscribed to by Germany and prohibiting sinking without warning, or even with warning if proper provision had not been made for the safety of passengers and crew. We need not concern ourselves with the niceties of argument whether the practice of arming merchantmen affects the position. If you are satisfied that orders were given that survivors should not be rescued, that steps should be taken to prevent the shipwrecked from surviving, for the use of such weapons that there could be no question of survivors, you will have no doubt that what was done was contrary to law. It is no answer that to allow non-combatants to survive entailed greater risk to the attackers. The murderer is not excused because he says that it was necessary to kill the victim he had violated lest he should subsequently identify him.

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So also in regard to the orders for the execution of Commandos. New methods of warfare, new forms of attack, do not in themselves repeal established rules of law. The sanctity of the life of the soldier in uniform who surrenders after the accomplishment of his mission and who committed no war crime prior to his capture, is and must remain an absolute principle of International Law. Those who, for whatever motive, trample upon it in disregard of law, of humanity, of chivalry, must pay the penalty when at last the law is vindicated.

I shall not examine this matter further or detail the other types of war crimes charged. For that these matters, various in their kind or method, were crimes under established law is not in doubt. The Tribunal will be concerned only to affirm the law and to decide upon the measure of these Prisoners involvement in its breach.

Crimes against humanity; the legal position.

Let me, however, before I turn to questions of fact refer to the Fourth Count of the Indictment, the crimes against humanity. It is convenient to deal with these matters together for, in so far as they were committed during the war, to some extent they overlap and in any case they are interconnected. The war crimes were in their very enormity crimes against humanity. The crimes against humanity were writ larger still. Moreover, the crimes against humanity with which this Tribunal has jurisdiction to deal are limited to this extent - they must be crimes the commission of which was in some way connected with, in anticipation of or in furtherance of the crimes against the Peace or the war crimes stricto sensu with which the Defendants are indicted. That is the qualification which Article 6(c) of the Charter introduces. The considerations which apply here are, however, different to those affecting the other classes of offence, the crime against Peace or the ordinary war crime. You have to be satisfied not only that what was done was a crime against humanity but also that it was not a purely domestic matter but that direct

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or indirectly it was associated with crimes against other nations or other nationals, in that, for instance, it was undertaken in order to strengthen the Nazi Party in carrying out its policy of domination by aggression, or to remove elements such as political opponents, the aged, the Jews, the existence of which would have hindered the carrying out of the total war policy. That is of course a very important qualification, and is not always appreciated by those who have questioned the exercise of this juridiction. But subject to that qualification we have thought it right to deal with matters which the criminal law of all countries would normally stigmatise as crimes. Murder, extermination, enslavement, persecution on political, racial or economic grounds. These things done against belligerent nationals, or for that matter, done against German nationals in belligerent occupied territory would be ordinary war crimes the prosecution of which would form no novelty. Done against others they would be crimes against municipal law except in so far as German law departing from all the canons of civilized procedure, has authorised them to be done by the State or by persons acting on behalf of the State. Although so to do does not in any way place these Defendants in greater jeopardy than they would otherwise be, the nations adhering to the Charter of this Tribunal have felt it proper and necessary in the interest of civilization to say that these things even if done in accordance with the laws of the German State, as created and ruled by these men and their ring-leader were when committed with the intention of affecting the international community - that is in connection with the other crimes charged - not mere matters of domestic concern but crimes against the law of Nations. I do not minimise the significance for the future of the political and jurisprudential doctrine which is here implied. Normally international law concedes that it is for the State to decide how it shall treat its own nationals, it is a matter of domestic jurisdiction. And although the Social and Economic Council is seeking to formulate a Charter of the Rights of Man the Covenant of the League of Nations and the Charter

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of the United Nations Organization does recognise this general position. Yet International Law has in the past sought to claim that there is a limit to the omnipotence of the State and that the individual human being, the ultimate unit of all law, is not disentitled to the protection of mankind when the State tramples upon his rights in a manner which outrages the conscience of mankind. Grotius, the founder of International Law had some notion of that principle when - at a time when the distinction between the just and unjust war was more clearly recognised than was the case in the 19th Century - he described as just a war undertaken for the purpose of defending the subjects of a foreign state from injuries inflicted by their ruler. He affirmed with reference to atrocities committed by tyrants against their subjects that intervention is justified for "the right of social connection is not cut off in such a case". The same idea was expressed by John Westlake, the most distinguished of British International Lawyers when he said:

> "It is idle to argue in such cases that the duty of neighbouring peoples is to look quietly on. Laws are made for men and not creatures of the imagination and they must not create or tolerate for them situations which are beyond endurance."

The same view was acted upon by the European Powers which in time past intervened in order to protect the Christian subjects of Turkey against cruel persecution. The fact is that the right of humanitarian intervention by war is not a novelty in International Law - can intervention by judicial process then be illegal? The Charter of the Tribunal embodies a beneficent principle - much more limited than some would like it to be - and it gives warning for the future to dictators and tyrants masquerading as a State that if, in order to strengthen or further their crimes against the community of nations they debase the sanctity of man in their own country they act at their peril for they affront the international law of mankind.

As for the criticism which is made of retroactive law, that it makes that criminal which men did not know to be wrong when

H5156 - 0060

they committed it - what application can that have here. No doubt these men counted on victory and little thought that they would be brought to account. But can anyone of them be heard to say that if he knew about these things at all he did not know them to be wrongs crying out to High Heaven for vengeance.

Facts: Treatment of Prisoners of War.

Let me deal first with what they did to prisoners of war, for this alone, the clearest crime of all, demands their conviction and will for all time stain the record of German arms.

On the 8th September 1941, final regulations for the treatment of Soviet prisoners of war in all prisoner of war camps were issued signed by General Reinecke, the head of the Prisoners of War Department of the High Command. They were the result of agreement with the SS and read as follows:-

1519 PS
GB 525

> "The Bolshevist soldier has therefore lost all claim to treatment as an honourable opponent in accordance with the Geneva Convention... The order for ruthless and energetic action must be given at the slightest indication of insubordination especially in the case of Bolshevist fanatics. Insubordination, active or passive resistance must be broken immediately by force of arms (bayonets, butts and firearms)... anyone carrying out the order who does not use his weapons or does so with insufficient energy is punishable... prisoners of war attempting escape are to be fired on without previous challenge. No warning shot must ever be fired... the use of arms against prisoners of war, is, as a rule, legal.... camp police must be formed of suitable Soviet prisoners of war in the camp... within the wire fence the camp police may be armed with sticks, whips or other similar weapons to enable them to carry out their duties effectively."

The regulations go on to order the segregation of civilians and politically undesirable prisoners of war taken during the eastern campaign. After prescribing the importance for the armed forces of ridding themselves of all those elements among the prisoners of war which could be considered as the driving forces of Bolshevism, emphasis is placed on the need for special measures, free from bureaucratic administrative influences, and accordingly their transfer to the security police and SD is given as the way to reach the "appointed goal".

That Keitel, who is directly responsible for this order, was issuing it with full knowledge of its implications is made clear by the memorandum of Admiral Canaris dated 15th September, 1941 protesting against it, and correctly stating the legal position as follows:

> "The Geneva Convention for the treatment of prisoners of war is not binding in the relationship between Germany and the U.S.S.R. Therefore only the principles of General International Law on the treatment of prisoners of war apply. Since the 18th century these have gradually been established along the lines that war captivity is neither revenge nor punishment but solely protective custody the only purpose of which is to prevent the prisoners of war from further participation in the war. This principle was developed in accordance with the view held by all armies that it is contrary to military tradition to kill or injure helpless people...The decrees for the treatment of Soviet prisoners of war enclosed are based on a fundamentally different viewpoint"

EC 338
(USSR 356)

Canaris went on to point out the shocking nature of the orders for use of arms by guards and for equipping the camp police with clubs and whips. On this memorandum Keitel noted:

> "The objections arise from the military concept of chivalrous warfare. This is the destruction of an ideology. Therefore I approve and back the measures. K."

Any possible doubt that Keitel knew that transfer to the Security Police and SD was intended to mean liquidation can hardly survive study of this document. Canaris writes of the screening of the undesirables:

> "the decision over their fate is effected by the action detachments of the Security Police and the SD"

on which Keitel, underlining Security Police, comments "very efficient" whilst on the further criticism by Canaris that the

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principles of their decision are unknown to the Wehrmacht authorities, Keitel comments "not at all".

The parallel instruction to the Security Police and SD recites the agreement with the [illegible] Command and after enjoining the closest co-operation between the members of the Police teams and the Commandants of the Camp and listing those to be handed over reads:

> "Executions must not be held in the camp. If the camps in the Government General are located in the immediate vicinity of the border the prisoners are to be taken if at all possible to former Soviet-Russian territory for special treatment".

502 PS
(USA 486)

It is not necessary to remind you of the volume of evidence with regard to the numbers of Soviet and Polish prisoners in concentration camps. Their treatment needs no further reminder than the report by the Commandant of Gross Rosen Concentration Camp who on the 23rd October, 1941 reports the shooting of twenty Russian prisoners between five and six o'clock that day and Muller's circular from the same file which states:

> "The commandants of the concentration camps are complaining that five to ten per cent of the Soviet Russians destined for execution are arriving in the camps dead or half dead. Therefore the impression has arisen that the Stalags are getting rid of such prisoners in this way.
>
> It was particularly noted that, when marching, for example from the railroad station to the camp, a rather large number of PWs collapsed on the way from exhaustion, either dead or half dead, and had to be picked up by a truck following the convoy.
>
> It cannot be prevented that the German people take notice of these occurences.
>
> Even if the transportation to the camps is generally taken care of by the Wehrmacht, the population will still attribute this situation to the SS.
>
> In order to prevent, if possible, similar occurrences in the future, I therefore order that, effective from today on, Soviet Russians declared definitely suspect and obviously marked by death (for example with typhus) and who therefore would not be able to withstand the exertions of even a short march on foot, shall in the future, as a matter of basic principle, be excluded from the transport into the concentration camps for execution.
>
> I request that the leaders of the Einsatz Kommandos be correspondingly informed of this decision without delay.

1165 PS
(USA 244)

L 158
(USA 514)

On the 2nd March 1944 the Chief of the SIPO and SD forwarded to his various branch offices a further order of the OKW for the treatment of prisoners recaptured after attempted escape. With the exception of British and Americans, who were to be returned to the camps, the others were to be sent to Mauthausen and to be dealt with under operation "Kugel" which, as the Tribunal will remember, involved immediate shooting. Enquiries by relatives, other prisoners, the Protecting Power and the International Red Cross were to be dealt with in such a way that the fate of these men, soldiers whose only crime was to do their duty, should be for ever hidden.

1650 PS
(USA 246)

It was shortly after the issue of the "Kugel" order that 80 British Officers of the R.A.F. made an attempt to escape from Stalag Luft III at Sagan. The defendants directly connected with this matter have not denied that the shooting of 50 of these officers was deliberate murder and was the result of a decision at the highest level. There can be no question that Goering, Keitel and probably Ribbentrop participated in this decision and that Jodl and Kaltenbrunner and, if he did not actually participate, Ribbentrop, were all aware of it at the time.

Goering's participation is a matter of inevitable inference from the following three facts:

First: The order was given by Hitler.

Second: Westhoff of the Prisoner of War Organisation of the OKW says he was informed by Keitel that Goering had blamed him for the escape at the meeting at which the order was decided upon.

UK 48
(USSR 413)

D 731
(GB 278)

Third: In Goering's own Ministry which was responsible for the treatment of R.A.F. prisoners of war, Walde heard of the order on the 28th March at the meeting of executives and told General Grosch. Grosch informed Foerster, who went straight to Milch, Goering's Chief of Staff and returned to inform Grosch that Milch had been told, and had made the necessary notes.

D 730
(GB 279)

You will say whether you do not consider the denials of Goering and Milch to be mere perjury.

9351

H5156 - 0063

7146
7262

Keitel admits that Hitler ordered transfer to the SD and that he "was afraid" they might be shot. He told his officers Graevenitz and Westhoff:

> "We must set an example. They will be shot - probably some have been shot already."

and when Graevenitz protested, replied:

> "I don't care a damn".

On this evidence of his own officers surely his complicity is clear.

11090

Jodl said that when Himmler was reporting the escape, he was in the next room telephoning, he heard a very loud discussion and on going to the curtain to hear what was going on, learnt that there had been an escape from Sagan. It is incredible in these circumstances that even if he did not take part in the decision he did not at any rate know of it from Keitel immediately after the meeting. And knowing, he carried on playing his part in the conspiracy.

D 731
(GD 278)

As to Kaltenbrunner's guilt the meeting at which Walde was informed of the decision was with Müller and Nebe, Kaltenbrunner's

2092/4

subordinates. Schellenberg's evidence of the discussion between Nebe, Müller and Kaltenbrunner about this time on the subject of an International Red Cross enquiry about 50 English or American prisoners of war is conclusive. He heard Kaltenbrunner providing his subordinates with the answer to be given to this inconvenient enquiry and one cannot doubt his full knowledge. The reply sent to the Protecting Power and the International Red Cross by Ribbentrop is now admitted on all hands to have been a pack of lies. Is it to be believed that he also was not a party to the decision?

That any of these men would have been prepared to take such a decision themselves or to comply with it if taken by Hitler is clear from the correspondence providing for the lynching or shooting of what were called terror fliers.

D 777:GD 310
D 783:GD 316
D 784:GD 317

These documents show that neither Keitel nor Jodl had any scruples in the matter while both Goering and Ribbentrop agreed to the draft order.

9352

H5156 - 0064

H5156 - 0065

You will remember the meetings which preceded that correspondence: first a meeting between Goering, Ribbentrop and Himmler at which

735 PS
(GB 151)

it was agreed to modify

> "the original suggestion made by the Reich Foreign Minister who wished to include every type of terror attack on the German civilian population as justifying action"

and which concluded that

> "lynch law would have to be the rule."

At the subsequent meeting between Warlimont and Kaltenbrunner it was agreed that

> "those aviators who escaped lynch law would in accordance with a procedure to be devised, be handed over to the SD for special treatment".

Finally Keitel's note on the file:-

> "I am against legal procedure. It does not work out".

Similar evidence is provided when we consider the attitude taken up in February 1945 when Hitler wished to renounce the Geneva Convention. Doenitz advised that

C 158
(GB 209)

> "it would be better to carry out measures considered necessary without warning and at all costs to save face with the outside world"

a decision with which Jodl and Ribbentrop's representative agreed. Their defence that this was merely a technical measure and that they did not in fact intend any concrete action is disposed of by Jodl's memorandum on the whole question:

D 606
(GB 492)

> "Just as it was wrong in 1914 that we ourselves solemnly declared war on all the states which for a long time had wanted to wage war against us and through this took the whole guilt of the war on our shoulders before the outside world, and just as it was wrong to admit that the necessary passage through Belgium in 1914 was our own fault, so it would be wrong now to repudiate openly the obligations of International Law which we accepted and thereby to stand again as the guilty party before the outside world".

After this remarkable statement he added that there was nothing to prevent them in fact from sinking an English hospital ship as a reprisal and then expressing regret that it was a mistake.

It remains to consider the question of employment of prisoners of war. Under Article 31 of the Geneva Convention it might have been permissible to employ prisoners on certain work in connection with the raw materials of the armament

H5156 - 0066

industry. But the statement made by Milch at the Central Planning Board on the 16th February 1943 in the presence of Speer and Sauckel had no legal justification.

R 124
(USA 179)

> "We have made a request for an order that a certain percentage of men in the Ack-Ack artillery must be Russians. 50,000 will be taken altogether, 30,000 are already employed as gunners. This is an amusing thing that Russians must work the guns".

The Minutes record no protest. It has not been suggested that Goering or any of the others who must have read the minutes regarded this outrage by the effective head of the German Air Force as in any way unusual.

Himmler's cynical words spoken at Posen on the 4th October 1943 on the subject of the Russian prisoners captured in the early days of the campaign should be quoted for history:

1919 PS
(USA 170)

> "At that time we did not value the mass of humanity as we value it today as raw material, as labour. What, after all, thinking in terms of generations is not to be regretted but is now deplorable by reason of the loss of labour is that the prisoners died in tens and hundreds of thousands of exhaustion and hunger."

I turn to the murder of the Commandos.

498 PS
(USA 501)

The evidence with regard to the Commando Order of 18th October 1942 directly involves Keitel, Jodl, Doenitz, Raeder, Goering and Kaltenbrunner. By Article 30 of the Hague Rules

> "a spy taken in the act shall not be punished without previous trial".

Whilst even the regulations printed in the book of every German soldier provide:

5620

> "No enemy can be killed who gives up, not even a partisan or a spy. These will be brought to punishment by the Courts".

These men were not spies: they were soldiers in uniform. It is not suggested that any men dealt with under this Order was ever given a trial before he was shot. Legally there can be no answer to the guilt of any of those defendants who passed on

11207

or applied this wicked order which Jodl admitted to be murder

7241,7427

and in respect of which Keitel, confessing his shame, admitted its illegality.

10005

Raeder admitted it was an improper order and even Doenitz

9287,9325

stated that now he knew the true facts he no longer regarded it as correct. The only defences put forward have been that

H5156 - 0067

the individual in question did not personally carry it out, th they regarded the statement in para 1 of the order as justifying the action by way of reprisal, that they did their best to minimise its effect and that it was not up to the individual to question the directives of a superior. No one has seriously disputed that handing over to the SD in the context means shooting without a trial.

The answer to these defences, in so far as they are not purely dishonest, is that the security precautions provided in the order itself were the plainest indication that the facts stated in para 1 did not constitute any justification which would bear the light of day. No higher degree of precaution accompanied Kugel, Nacht und Nebel or any other of their brutal orders. That the shackling incident at Dieppe had nothing to do with it appears from Jodl's Staff memorandum of the 14th October 1942 which states in terms that the Führer's aim was to prevent the Commando method of waging war by dropping small detachments who did great damage by demolitions etc., and then surrendered.

1266 PS (GB 486)

D 649 (GB 208)

The cancellation of the order in 1945 is further evidence that those responsible for it recognised their guilt, which was perhaps best summarised by the entry in the War Diary of the Naval War Staff with reference to the shooting of the Commandos taken in uniform at Bordeaux; "Something new in International Law". Yet Raeder and his Chief of Staff were prepared to initial that entry. Kaltenbrunner's knowledge is clearly shown by his letter to the Armed Forces Planning Staff of the 23rd January 1945 referring to it in detail and disputing its application to certain categories.

D 658 (GB 229)

535 PS (USA 807)

Other men have already been sentenced to death for execution of this order, men whose only defence was that they obeyed an order from their superiors. I refer to the members of the SD executed for the murder of the crew of MTB 345 in Norway and General Dostler in Italy. Innumerable instances from their own records have been proved against these defendants. Shall they escape? You will remember the

H5156 - 0068

3531 PS
(GB 527)

attitude of the Nazi People's Court in 1944 to the plea of superior orders.

The Commando Order cannot compare in wickedness or brutality with the Nacht und Nebel Order of the 7th December 1941. The Hitler directive signed by Keitel, after prescribing the death penalty for offences endangering the security or state of readiness of the occupying powers, orders the removal to Germany of offenders, other than those whose execution could be completed in a very short time, under circumstances which would deny any information with regard to their fate. Keitel's covering letter of the 12th December gives the reason:

L 90
(USA 503)

> "Efficient and enduring intimidation can only be achieved either by capital punishment or by measures by which the relatives of the criminals and the population do not know the fate of the criminal. This aim is achieved when the criminal is transferred to Germany".

It is interesting to contrast that statement written when Keitel thought Germany was winning the war with his evidence before the Tribunal:

7119

> "Penal servitude would be considered dishonourable by these patriots....By going to Germany they would suffer no dishonour".

D 569
(GB 277)

This decree was still being enforced in February 1944 when the Commanders of some 18 concentration camps were being reminded of its purpose and how to dispose of the bodies of "Night and Fog" prisoners without revealing the place of death. The treatment of these prisoners was described by the Norwegian witness, Cappelen, and members of the Tribunal will not have forgotten his account of the transport of between 2500 and 2800 N.N. prisoners from one concentration camp to another in 1945 when 1,347 died en route.

3522-4

> "Feeble as we were, we could not walk fast enough and when they took their guns, the line of five, the line just before us - they took their guns and smashed in the heads of all five of them, and they said: "If you don't walk in an intelligent way see what will happen to you"....But at last after six to eight hours we came to a railway station. It was very cold, and we had only such striped prison clothes on and bad boots, naturally, but we said, "Oh, we are glad that we have come to a railway station. It is better to

> stand in a cow truck than to walk in the middle of wint
> It was very cold, ten to twelve degrees I suppose,
> very cold. There was a long train with open trucks.
> In Norway we call them sand trucks and we were kicked
> on to those trucks about 80 on each truck....In this
> truck we sat for about five days without food - cold -
> without water. When it was snowing we made like this
> (indicating) just to get some water in the mouth and
> naturally after a long long time, it seemed to me like
> years, we came to a place which I afterwards learnt
> was Dora which is in the neighbourhood of Buchenwald.
> We came there. They kicked us down from the trucks,
> but many were dead. The man who sat by me, he was dead,
> but I had no right to get away. I had to sit with a
> dead man for the last day, and I didn't see the cyphers
> myself, naturally, but about half of us were dead, getti
> stiff, and they told that - I heard the cipher
> afterward in Dora - that the cipher of dead on our
> train was 1,347. Well, from Dora I don't remember
> so much, because I was more or less dead. I have
> always been a man of good humour and high spirited,
> to help myself first and my friends, but I had nearly
> given up. And then at the end of our sufferings we
> were rescued and brought to Neuengamme by Hamburg, and
> when we arrived there were some of my old friends, the
> student from Norway who had been deported to Germany,
> other prisoners who came from Sachsenhausen and other
> camps and the few, comparatively few, Norwegian N.N.
> prisoners who were living in very bad conditions.
> Many of my friends are still in hospital in Norway,
> some died after coming home."

In July 1944 a yet more drastic order followed Nacht

D 762
(GD 298)

und Nebel. On the 30th of that month Hitler issued the Terror and Sabotage decree providing that all acts of violence by non-German civilians in occupied territories should be combatted as acts of terrorism and sabotage. Those not overcome on the spot were to be handed over to the SD, women put to work, only children spared. Within a month Keitel

D 763
(GD 300)

extended the order to cover persons endangering security or war preparedness by any means other than acts of terrorism or sabotage, the usual secrecy requirements were laid down, restricting distribution in writing to a minimum. He then

D 764
(GD 299)

ordered that the Terror and Sabotage decree was to form the subject of regular emphatic instruction

H5156 - 0069

H5156 - 0070

to all personnel of the armed forces, SS and Police: it was to be extended to crimes affecting German interests, but not imperilling the security or war preparedness of the occupying power. New regulations could be made by the agreement of particular commanders and higher SS Chiefs. In other words any offence by any person in the occupied territories could be dealt with under this decree.

On the 9th September 1944 a meeting was solemnly held between representatives of the High Command and S.S. to discuss the relationship of the Night and Fog Order to the Terror and Sabotage decree. It was considered that the former had become superfluous and the meeting went on to consider the transfer of the 24,000 non-German civilians held under it by the SS to the S.D. The meeting went on to discuss the problem of certain neutrals who had been "turned into fog" by mistake. The German word "Vernebelt" justifies the statement of the witness Blaha that the special and technical expressions used in concentration camps can only be said in German and cannot be translated into any other language. It is perhaps superfluous to remind the Tribunal that when the Luftwaffe General in Holland asked for authority to shoot striking railwaymen, since the procedure of handing over to the SD. under the decree was too roundabout, Keitel, in a reply, copies of which were sent both to the Admiralty and Air Ministry as well as to the principal commanders in occupied territories, agreed at once that if there was any difficulty in handing over to the SD:

D.767
GB.303

2624

D.769
GB.304

H5156 - 0071

D.770
GB.305

"Other effective measures are to be taken ruthlessly and independently."

In other words, General Christiansen could shoot the railwaymen if he thought fit.

It is not easy for anyone who has not had to live in territory occupied by the Germans to realise the suffering and the state of terror and constant apprehension in which the peoples of Europe lived through the long years of subjection. It was Frank, who, writing on the 16th December 19[illegible], said:-

USSR.223

"As a matter of principle we shall have pity only for the German people - and for no one else in the world."

Save that they had no pity even for their own people, how faithfully these men carried out that principle.

I turn now to the attack on the Partisans. If any doubt remained that the German armed forces were directed not by honourable soldiers but by callous murderers, it must be dissolved by the

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evidence as to the appalling ruthlessness with which it was sought to put down the Partisans. The witness Ohlendorf said that the direction of anti-

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Partisan warfare was the subject of a writen agreement between the German War Office, the High Command, and the SS. As a result of that agreement an Einsatz Group was attached to each Army Group H.Q. and directed the work of the Einsatz Commandos allotted to the group in co-ordination and agreement with the Military authorities. If confirmation of the Army's support, knowledge and approval were needed, one has only to look at the report of the Einsatz Group A on its activities during the first three months of the campaign.

H5156 - 0072

against the Soviet Union

L.180
US.276

> "Our task was to establish hurriedly personal contact with the Commanders of the Armies and with the Commander of the Army of the rear area. It must be stressed from the beginning that cooperation with the armed forces was generally good, in some cases..... it was very close, almost cordial;"

and again, speaking of the difficulty of dealing with the partisans in a particular area,

> "After the failure of purely military activities such as the placing of sentries and combing through the newl. occupied territories with whole divisions, even the armed forces had to look out for new methods. The Action group undertook to search for new methods. Soon therfore the armed forces adopted the experiences of the security police and their methods of combatting the partisans."

One of these methods is described in the same report as follows:-

> "After a village had been surrounded, all the inhabitants were forcibly shepherded into the main square. The persons suspected on account of confidential information and other villagers were interrogated and thus it was possible in most cases to find the people who helped the partisans. These were either shot off hand, or, if further interrogations promised useful information, taken to Headquarters. After the interrogation they were shot. In order to get a deterring effect the houses of those who had helped the partisans were burnt down on several occasions."

And then, after stating that villagers were always threatened with the burning of the whole village, the report adds:-

> "The tactics to put terror against terror succeeded marvellously."

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The Einsatz Commandos were, as Ohlendorf stated, under Kaltenbrunner's command, but the orders under which they were acting cannot have exceeded in severity those issued by Keitel. The Fuehrer order issued by him on 16th December 1942 on the combatting of partisans states:

H5156 - 0073

UK. 66
GB. 274

> "If the fight against the partisans in the east as well as in the Balkans is not waged with the most brutal means, we will shortly reach the point when the available forces are insufficient to control this area. It is therefore not only justifiable but is the duty of the troops to use all means without restriction - even against women and children as long as it ensures success."

Three days later he and Ribbentrop were informing their Italian opposite numbers at breakfast that:

D. 735
GB. 295

> "The Fuehrer had declared that the Serbian conspirators were to be turned out and that no gentle methods might be used in doing this."

Keitel interjecting that

> "every village in which partisans were found had to be burnt down."

Two months later Ribbentrop was urging the Italian Ambassador in Berlin to greater brutality in dealing with the partisans in Croatia:

D. 741
GB. 296

> "The gangs had to be exterminated and that included men, women and children as their continued existence imperilled the lives of German and Italian men, women and children."

Goering appears to have assisted Himmler in recruiting the necessary personnel for anti-partisan work and is recorded by a Cabinet Councillor on the 24th September 1942 as stating that he was looking for daring fellows for employment in the East as Special Purpose Units and considering convicts and poachers for the purpose. His idea was that:

683 PS
USA. 788

> "in the regions assigned for their operations these bands, whose first task should be to destroy the communications of the partisan groups, could murder burn and ravish. In Germany they would once again come under strict supervision."

A month later he gave the Duce a description of Germany's method in combatting the partisans in the following terms:

H5156 - 0074

D.729
GB.28.1

"To begin with the entire livestock and all foodstuff is taken away from the areas concerned so as to deny the partisans all sources of food. Men and women are taken away to Labour camps, children to children's camps and the villages burnt down.... Should attacks occur, then the entire male population of villages would be lined up one side and the women on the other side. The women would be told that all men would be shot unless they (the women) indicated which of the men did not belong to the village. In order to save their men the women always pointed out the stranger."

These methods were not confined to the East. They were going on throughout the length and breadth of every occupied territory. Wherever the slightest resistance was offered the German answer was to attempt to stamp it out with the utmost brutality. It would not be difficult to rival the events of Lidice and Oradour sur Glane by a hundred other instances.

One of the most brutal expedients - the taking of hostages was the subject of an order by the German High Command on 16th September 1941. Keitel ordered:

C.148
US.555

"It should be inferred in every case of resistance to the German occupying forces no matter what the individual circumstances that it is of Communist origin.

"In order to nip these machinations in the bud the most drastic measures should be taken immediately on the first indication so that the authority of the occupying forces may be maintained and further spreading prevented. In this connection it should be remembered that a human life in unsettled countries frequently counts for nothing and a deterrent effect can be attained only by unusual severity. The death penalty for 50 to 100 Communists should generally be regarded in these cases as suitable atonement for one German soldier's life. The way in which sentence is carried out should still further increase the deterrent effect."

We may compare the wording of the Einsatz Commando Report:

L.180
US. 276

"In the knowledge that the Russian has been accustomed from old to ruthless measures on

H5156 - 0075

> the part of the authorities, the most severe measures were applied."

There is no difference in outlook between Keitel and Kaltenbrunner: the German soldier was being ordered to emulate the SS.

A fortnight after issuing that order, Keitel, whose only defence was that he had pressed for 5 to 10 hostages for one German in place of 50 to 100, had had a further idea, and on the 1st October 1941 he suggests that it is advisable that military commanders should always have at their disposal a number of hostages of different political tendencies, Nationalist, democratic-bourgeois, or Communist, adding:

1590 PS
RF. 1433

> "It is important that among them shall be well known leading personalities or members of their families whose names are to be made public. Depending on the membership of the culprit, hostages of the corresponding group are to be shot in case of attacks."

The original document bears the ominous note: "Complied with in France and Belgium."

The effect of these orders throughout the German Army is well seen from three instances of the action taken by a local commander.

J. 21
USSR. 74

In Yugoslavia, a month after Keitel's original order a station commander reported that in revenge for the killing of ten German soldiers and the wounding of another twenty six a total of 2,300 people had been shot, 100 for each killed and 50 for each wounded German soldier.

UK. 66
GB. 274

On the 11th July 1944 the Commander of the District of Kovolo in Italy was, in a public poster, threatening to kill 50 men for every member of the German Armed Forces whether military or civilian, who was wounded, and a hundred if a German was killed. In the event of more than one soldier or civilian being killed or wounded, all the men of the distric

H5156 - 0076

would be shot, the houses set on fire, the women interned, and the cattle confiscated immediately. In June of the same year 560 persons, including 250 men, were reported by Kesselring as having been taken into custody under threat of shooting within 48 hours, a German colonel having been captured by bandits.

D.39
GD.275

The men directly implicated in these brutalities are Goering, Ribbentrop, Keitel, Jodl, and Kaltenbrunner, but who can doubt that every man in that dock knew of the orders and of the way in which the German Armed Forces were being taught to murder men, women and children, and were doing so throughout the length and breadth of Europe? Raeder, who says he disapproved of this sort of policy in Norway, states that he tried to dissuade Hitler, yet he continued to hold his post and to lend his name to the regime under which these things were done.

I pass on to matters with which he, and Doenitz were more immediately responsible. The conduct of the war at sea reveals exactly the same pattern of utter disregard for law and decency. There can seldom have been an occasion when the minds of two naval commanders have been so clearly read from their documents as those of the defendants Raeder and Doenitz in the present case.

C.157
GB.471

On the 16th October 1939 Raeder produced a memorandum on the intensification of naval war against England. In this document, having proclaimed the "utmost ruthlessness" as necessary and the intention to destroy Britain's fighting spirit within the shortest possible time, Raeder went on to say:

C.157
GB.224

> "The principal target is the merchant ship, not only the enemy's but in general every merchant ship which sails the seas in order to supply the enemy's war industry both for imports and exports."

It is this document which contains the infamous passage:

"It is desirable to base all military measures taken

H5156 - 0077

> on existing international law; however measures which are considered necessary from a military point of view, provided a decisive success can be expected from them, will have to be carried out even if they are not covered by existing international law. In principle, therefore, any means of war which is effective in breaking enemy resistance should be used on some legal conception, even if this entails the creation of a new code of naval warfare."

C.100
GB.463

In another memorandum on the 30th December he went on to urge further intensification, particularly with regard to neutrals:

> "without binding ourselves to any conception of warning,"

and suggested that as they were going to invade neutral States it really did not matter if they went a little far at sea.

> "The intensified measures of the war at sea will in their political effect only play a small part in the general intensification of the war."

You will have noted that these memoranda on the conduc of the war at sea echo the High Command's view on the future war written eighteen months earlier:

L.211
GB.161

> "The normal rules of war towards neutral nations may be considered to apply only on the basis of whether the operation of these rules will create greater advantages or disadvantages for the warring nations."

Was that a mere coincidence: at all events, such was the pattern laid down by Raeder and followed by Doenitz. From the very first the Naval War Staff never had any intention of observing the laws of war at sea.

Details with regard to the various successive measures taken in the course of putting into effect the policy of sink at sight do not require recapitulation but there are two features of the conduct of naval warfare by these two defendants which I emphasize. First, they continued to put out to the world that they were obeying the London Rules and their own Prize Ordinance. The reason for this appears in Raeder's memorandum of the 30th December 1939 where he says:

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C.100
GB.463

> "A public announcement of intensified measures for the war at sea must be urgently advised against in order not to burden the Navy again in the eyes of history with the odium of unrestricted U-boat warfare."

D.606
GB.492

This is the common plan - the very argument put forward by Jodl and Doenitz in February 1945 in favour of simply breaching the regulations of the Geneva Convention rather than announcing Germany's renunciation of it to the world. Here, once again, is the doctrine of military expediency: if it will pay Germany to break a particular law she is entirely justified in breaking it, provided always it is done in such a way as to avoid detection and the condemnation of world opinion.

It must not be thought that in initiating this policy of sink at sight and in disregarding the rules of the war at sea Raeder was any more drastic than Doenitz. In his defence Doenitz made a great effort to explain away his order of 17th September. I ask the Tribunal to remember its terms:-

D.630
GB.199

> "No attempt of any kind must be made at rescuing members of ships sunk....Rescue runs counter to the rudimentary demands of warfare for the destruction of enemy ships and crews."

His diary entry of the same date, which confirms this order, starts:

> "The attention of all C.O's. is <u>again</u> drawn to the fact that all efforts to rescue..... run counter to the rudimentary demands of warfare...."

9267

The defendant denied that this means that crews were to be destroyed or annihilated. But the previous history makes it abundantly clear that this was an invitation to U-boat commanders to destroy the crews of ship-wrecked merchantmen, while preserving an argument for Doenitz to make, should - as has indeed happened - occasion arise. That, after all, was the pattern laid down by Hitler when on the 3rd January 1942 he told Oshima that

D.423
GB.197

> "he must give the order that in case foreign seamen could not be taken prisoner....U-boats were to surface after torpedoing and shoot up the lifeboats."

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The Prosecution firmly and strongly submit that the defendant Doenitz intended by that order to encourage and procure as many submarine commanders as possible to destroy the crews of torpedoed merchant ships but deliberately couched the order in its present language

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so that he could argue the contrary if circumstances required it. On the evidence of Admiral Wagner that the Naval War Staff approved the order of 17th September 1942 with respect to survivors, Raeder cannot escape responsibility and, indeed, since he was present at the meeting with Hitler in May of that year and received the Fuehrer order of the 5th September 1942 to issue instructions to kill survivors, there can be little doubt that he was fully involved in his subordinates' policy.

Do. 16

Do. 39

Although within a few months Allied air power made it impossible for U-boats in most areas to risk surfacing at all after they had discharged their torpedo, and the question became one of less importance, it is interesting to note that when the order against rescue ships was issued on the 7th October the following year the same phrase "destruction of ships' crews" recurred.

D 663
GB 200

Despite the denial of Kapitan Leutnant Eck, there can be no real doubt that, briefed by Moehle, he did what his superior officers intended. Why should it be supposed that a man, who a month later received Hitler's Commando Order without protest, should shrink from ordering the destruction of seamen on rafts or clinging to wreckage, when Hitler had explained its military necessity. Eck, who obeyed the orders of Raeder and Doenitz, has paid the supreme penalty. Are they to escape with less?

Do. 36

9323/4

Belligerent Occupation: Slave Labour.

I turn to yet another war crime - the use of slave labour. Its importance for the German war machine had been appreciated by the Defendants long before the outbreak of war. Hitler had mentioned this factor in "Mein Kampf" and emphasized it at the meeting in May 1939. A few weeks later in June the Reich Defence Council, Goering, Frick, Funk and Raeder and representatives of every other Ministry of State were planning to employ 20,000 concentration camp inmates and hundreds of thousands of workers from the Protectorate in the coming war.

"Mein Kampf" p.256
L 79
US 27

PS 3387
US 566

Hitler's plan for Poland, revealed to Schirach and Frank, was as follows:-

H5156 - 0081

PS 864
USSR 172

> "The ideal picture is this - a Pole may possess only small holdings in theGovernment General which will to a certain exte provide him and his family with food. The mone required by him for clothes, etc., he must earn in Germany by work. The Government General must become a centre for supplying unskilled labour, particularly agricultural labour. The subsistence of these workmen will be fully guaranteed because they can always be made use of for cheap labour."

This policy was, of course, a short-term policy, the real aim being the elimination of the Eastern peoples. Sauckel was appointed Plenipotentiary with the task of replacing two million German workers who had been called to service with the Wehrmacht. He himself says that after Hitler had emphasized that it was a war necessity he himself had no scruples and within a month of his appointment he had sent his first labour mobilisation programme to Rosenberg.

PS 016
US 168

> "Should we not succeed in obtaining the necessary labour on a voluntary basis we must immediately institute conscription of forced labour .... a gigantic number of new foreign slave workers ... men and women ... an indisputable necessity."

This programme he was to carry o

PS 017
US 180

> "with every possible pressure and a ruthless commitment of all our resources."

It is unnecessary to refer to the voluminous evidence of the execution of this policy for the recruitment of workers. It is sufficient to quote Sauckel again addressing the Central Planning Board in March of 1944:

R 124
US 179

> "Trained male and female agents who shanghaied men for labour in Germany ... Out of five million foreign workers who arrived in Germany not even 200,000 came voluntarily."

The methods employed in their forced deportations are hideous in their brutality and must have been known to every one of these defendants. In April of 1941 Himmler was addressing the officers of the SS Leibstandarte Adolf Hitler:-

PS 1918
US 304

> "Very frequently a member of the Waffen SS thinks about the deportation of this people here. These thoughts come to me too watching the very difficult work perform by the Security Police and supported by your men who help them a great deal. Exactly the same thing happened in Poland in weather 40 degrees below zero where we had to haul away thousands, tens of thousands, hundreds of thousands."

H5156 - 0082

And again:

1919 PS
US 170

> "Whether 10,000 Russian females fall down from exhaustion while digging an anti-tank ditch interes me only in so far as the anti-tank ditch for Germa is finished .... When somebody comes to me and says "I can't dig the anti-tank ditch with women and children, it is inhuman, for it would kill them", then I have to say that you are a murderer of your own blood because if the anti-tank ditch is not dug German soldiers will die and they are the sons of German mothers .... We must realise that we have 6-7 million foreigners in Germany .... Perhaps it is even eight million now we have prisoners in Germany. They are none of them dangerous so long as we take severe measures at the merest trifle."

By August 1943 the need for workers was even greater. Himmler ordered

744 PS
US 455

> "that all young female persons capable of work are to be sent to Germany for work through the agency of Reich Commissioner Sauckel. Children, old women and men are to be collected and employed in women's and children's camps."

The orders issued to Group Leaders of the SD, active in the Ukraine, showed the same urgency.

PS 3012
US 190

> "The activity of the Labour Office .... is to be supported to the greatest extent possible. It will not be possible always to refrain from using force... When searching villages, especially when it has become necessary to burn down a village, the whole population will be put at the disposal of the Commissioner by force. As a rule, no more children will be shot .... If we limit our harsh measures through the above orders for the time being, it is done for the following reason. The most important thing is the recruitment of workers."

12102

Speer admitted - how could he deny it? - knowledge and approval of the way the workers were enrolled and brought to Germany against their will; there was also Kaltenbrunner's letter to his friend Blaschke:

PS 3803
US 802
7720

> "For special reasons I have in the meantime given orders to ship several evacuation transports to Vienna, at present four shipments with approximately 12,000 Jews are pending. They should reach Vienna within the next few days .... Women unable to work and children of those Jews who are all kept in readiness for special action and therefore one day will be removed again, have to stay in the guarded camp also during the day."

That sinister phrase again - the meaning of which they all knew so well - "special treatment", "special action". Murder remains murder by whatever euphemism murderers may seek to describe it.

H5156 - 0083

The need for labour became so urgent that not only were even Jews spared the gas chambers so long as they were fit for employment but children were seized and put to work.

So much for their deportation to Germany. What was to be their lot on their arrival? As early as March 1941 instructions had been issued to the Kreis Farmers Association on the treatment Polish farm workers were to receive. They were to have no rights to complain. They were forbidden to visit churches: all forms of entertainment, public transport were barred. Their employers were given the right to inflict corporal punishment and were "not to be held accountable in any case by any official agency." And lastly, it was ordered:

EC 68
US 295

> "Farm workers of Polish nationality should if possible be removed from the community of the home, they can be quartered in stables, etc. No remorse whatever should restrict such action."

The treatment of those employed in industry was even worse. You will remember the affidavit of the Polish doctor in Essen who did his best to attend to the Russian prisoners of war:

) 313
S 901

> "The men were thrown together in such a catastrophic manner that no medical treatment was possible ... It seemed to me unworthy of human beings that people should find themselves in such a position .... Every day at least ten men were brought to me whose bodies were covered with bruises on account of the continual beatings with rubber tubes, steel switches or sticks. The people were often writhing with agony and it was impossible for me to give them even a little medical aid .... It was difficult for me to watch how such suffering people could be directed to do heavy work .... Dead people often lay for two or three days on the palliasses until their bodies stank so badly that fellow prisoners took them outside and buried the somewhere .... I was a witness during a conversation with some Russian women, who told me personally that they were employed in Krupps factory and that they were beaten daily in a most bestial manner .... Beating was the order of the day."

D 524
GB 532

By the end of 1943 more than five million men, women and children were working in the Reich and if we include prisoners of war the total of those working in Germany was at this date just under 7,000,000. To these must be added the hundreds of thousands brought in during 1944. Millions of men and women taken from their homes by the most brutal methods, transported in all weathers in cattle-trucks from every quarter of Europe, employed on farms and

H5156 - 0084

in factories throughout the Reich, frequently under abominable conditions. Children taken from their parents, many to remain for their lives orphans, not knowing their identity or true names; taken away before they were old enough to remember the place from which they came. What is the measure of this crime? No man in that dock can dispute his knowledge or his complicity. The minutes of the Central Planning Board must have been read in every department of the State. You have seen the mass of evidence connecting the military leaders and every other branch of the Government with this colossal programme of slavery. None of these men can be acquitted of this crime. None of them can have been ignorant of the scale and brutality with which it was perpetrated.

I pass now to a connected matter, but one even more terrible. The general manner in which the Defendants conducted the belligerent occupation of the territories which they had overrun.

Belligerent Occupation: Extermination.

The evidence that these territories were the scene of murder, slavery, terrorism and spoliation on a scale without precedent in history, and in breach of the elementary rules as to belligerent occupation has not been seriously challenged. These crimes were in no sense sporadic or isolated depending on the sadism of a Koch here or cruelty by a Frank there. They were part and parcel of a deliberate and systematic plan of which their action in regard to slave labour was a symptom. In order to establish the "1,000-year Reich" they set out to accomplish the extermination or permanent weakening of the racial and national groups of Europe or of those sections, such as the intelligentsia, on which the survival of those groups must largely depend.

The origin of this terrible attempt upon the existence of free and ancient nations goes back to the whole Nazi doctrine of total war which rejected war as being merely against States and their armies, as international law provides. Nazi total war was also a war against civilian populations, against whole peoples. Hitler told Keitel at the end of the Polish campaign:

H5156 - 0085

864 PS
USA 609

"Shrewdness and severity must be the maxims in this racial struggle in order to spare us from going to battle on account of Poland again."

The aims of genocide were formulated by Hitler in the following words in his conversation with Hermann Rauschning:

USSR 378

"The French complained after the war that there were twenty million Germans too many. We accept the criticism. We favour the planned control of population movements. But our friends will have to excuse us if we subtract the twenty millions elsewhere. After all these centuries of whining about the protection of the poor and lowly, it is about time we decided to protect the strong against the inferior. It will be one of the chief tasks of German statesmanship for all time to prevent, by every means in our power, the increase of the Slav races. Natural instincts bid all living beings not merely to conquer their enemies, but also destroy them. In former days, it was the victor's prerogative to destroy entire tribes, entire peoples. By doing this gradually and without bloodshed, we demonstrate our humanity."

Himmler's vision was similar:

L 170
US 308

"For us the end of this war will mean an open road to the East, the creation of the Germanic Reich in this way or that .... the fetching home of 30 million human beings of our blood, so that still during our lifetime we shall be a people of 120 million Germanic souls. That means that we shall be the sole decisive power in Europe. That means that we shall then be able to tackle the peace, during which we shall be willing for the first twenty years to re-build and spread out our villages and towns, and that we shall push the borders of our German race 500 kilometers further out to the East."

Their aims went beyond mere Germanisation, the imposing of the German cultural pattern upon other peoples. Hitler was resolved to expel non-Germans from the soil he required and colonize it by Germans. This is plainly stated in "Mein Kampf":-

GB 128

".... The Polish policy in the sense of a Germanisation of the East, demanded by so many, was rooted unfortunately almost always in the same wrong conclusion. Here too it was believed that one could bring about a Germanisation of the Polish element by a purely linguistic integration into the German nationality. Here too the result would have been an unfortunate one: people of an alien race, expressing its alien thought in the German language, compromising the height and dignity of our own nationality by its own inferiority."

Himmler put it even more clearly:

2915 PS
US 306

"It is not our task to Germanise the East in the old sense, that is to teach the people there the German language and the German law, but to see to it that only people of purely Germanic blood live in the East."

H5156 - 0086

The defendants were careful to conceal their true aims from their victims. In January 1940 a captured report reads:-

661 PS
US 300

> "In order to relieve the living space of Poles in the Government General as well as in the liberated East, one should remove cheap labour temporarily by hundreds of thousands, employ them for a few years in the old Reich, and thereby hamper their native biological propagation,"

and concludes

> "Strictest care is to be taken that secret circulars, memoranda and official correspondence which contain instructions detrimental to the Poles are kept rigidly under lock and key so that they will not some day fill the White Books printed in Paris or the U.S.A."

Again, the day before the appointment of Rosenberg as Minister for the East, Hitler told him in the presence of Keitel, Goering and Bormann:

L 221
US 317

> "We ought to act here in exactly the same way as we did in the case of Norway, Denmark, Holland and Belgium. In these cases too we did not publish our aims and it is only sensible to continue in the same way. Therefore we shall emphasize again that we were forced to occupy, administer or secure a certain area. It was in the interests of the inhabitants that we provided order, food, communications, etc. Hence our measures. Nobody shall be able to recognise that it initiates a final settlement. This need not prevent our taking all necessary measures - shooting at sight, etc., and we shall take them."

Having given these words of caution to his confederates, you will remember how Hitler went on to elaborate his plans for the destruction of the Soviet peoples. The Crimea, he said must be evacuated of all foreigners and settled by Germans only.

> "We now have to face the task of cutting up the giant cake according to our needs in order to be able
> Firstly, to dominate it,
> secondly, to administer it,
> thirdly, to exploit it."

3859 PS
GB 520

The pattern was exemplified in the infamous plan of Neurath and Karl Hermann Frank for Bohemia and Moravia. No more terrible document has been put in evidence in this trial nor one which more completely exposes the falsity of the slogan "Lebensraum", which constituted the excuse for the rape of Czechoslovakia. That plan required the elimination of the intelligentsia, the bearers of Czechoslovak history and tradition

and, since the long term solution of evacuating all Czechs completely from the country and replacing them by Germans could not be effected immediately because of shortage of Germans, a short term solution of Germanising the remainder of the population. This was to be done by rendering their language a dialect, abolition of higher education, instituting a stringent marriage policy after previous racial examination. You will remember Frank's summary:

> "Apart from the continuance of the propaganda for Germanization and the granting of advantages as an inducement, severest police methods with exile and special treatment for all saboteurs. Principle: "Pastry and Whip".

You will remember too the plan for Poland discussed in Hitler's train on 12th September 1939 by Ribbentrop, Keitel and Jodl as described in the evidence of the witness Lahousen and the discussion between Hitler, Schirach and the defendant Frank three weeks later after dinner in the Fuehrer's apartment.

615-8

> "There should be one master only for the Poles - the German: two masters side by side cannot and must not exist and therefore all representatives of Polish intelligentsia are to be exterminated. This sounds cruel but such is the law of life."

864 PS
USSR 172

Such were the plans for the Soviet Union, for Poland and for Czechoslovakia. Genocide was not restricted to extermination of the Jewish people or of gypsies. It was applied in different forms to Yugoslavia, to the non-German inhabitants of Alsace-Lorraine, to the people of the Low Countries and of Norway. The technique varied from nation to nation, from people to people. The long term aim was the same in all cases.

The methods followed a similar pattern: first a deliberate programme of murder, of outright annihilation. This was the method applied to the Polish intelligentsia, to gypsies and to Jews. The killing of millions, even by the gas chambers and mass shootings, employed was no easy matter. The defendants and their confederates also used methods of protracted annihilation, the favourite being to work their victims to death, hence Himmler's bond with the Minister of Justice in September 1942 under which anti-social elements were handed over to the SS "to be worked to

654 PS
USA 218

H5156 - 0087

H5156 - 0088

death". On the 14th of the same month Goebbels was recommending this method in terms:

682 PS
RF 11
RF 389

> "With regard to the destruction of asocial life Dr Goebbels has the opinion that the following groups should be exterminated: Jews and gypsies unconditionally, Poles who have to serve 3-4 years of penal servitude, and Czechs and Germans who are sentenced to death or penal servitude for life or to security custody (Sicherungsverwahrung) for life. The idea of exterminating them by labour is the best."

Another favourite technique of extermination was by starvation. Rosenberg the great architect of this policy of national murder, told his collaborators in June 1941:-

1058 PS
US 147

> "The object of feeding the German people stands this year without a doubt at the top of the list of Germany's claims on the East and there the southern territories and the Northern Caucasus will have to serve as a balance for the feeding of the German people. We see absolutely no reason for any obligation on our part to feed also the Russian people with the products of that surplus territory. We know that this is a harsh necessity bare of any feelings. A very extensive evacuation will be necessary without any doubt and it is sure that the future will hold very hard years in store for the Russians."

The method applied in Alsace was deportation. A captured report reads:

R 114
RF 753
US 314

> "The first expulsion action (Ausweisungsaktion) was carried out in Alsace in the period from July to December, 1940: in the course of it, 105,000 persons were either expelled or prevented from returning. They were in the main Jews, gypsies and other foreign racial elements, criminals, anti-social and incurably insane persons, and in addition Frenchmen and Francophiles. The Patois-speaking population was combed out by these series of deportations (Aussiedlungswelle) in the same way as the other Alsatians."

The report goes on to state that new deportations are being prepared and after reciting the categories affected, sums up the measures being taken:-

> "The problem of race will be given first consideration and this in such a manner that persons of racial value will be deported to Germany proper and racially inferior persons to France."

The Nazis also used various biological devices, as they have been called, to achieve genocide. They deliberately decreased the birthrate in the occupied countries by sterilization, castration and abortion, by separating husband from wife and man from woman and obstructing marriage.

H5156 - 0089

> "We are obliged to depopulate", said Hitler to Rauschning, "as part of our mission of preserving the German population. We shall have to develop a technique of depopulation. If you ask me what I mean by depopulation, I mean the removal of entire racial units. And that is what I intend to carry out - that, roughly, is my task. Nature is cruel, therefore, we, too, must be cruel. If I can send the flower of the German nation into the hell of war without the smallest pity for the spilling of precious German blood, then surely I have the right to remove millions of an inferior race that breeds like vermin!".

You have seen Neurath's use of this biological device in his plan for Czechoslovakia. Listen to Bormann's directives for the Eastern Territory summarized by one of Rosenberg's subordinates:-

R 36
USA 699

> "The Slavs are to work for us. In so far as we don't need them, they may die. Therefore, compulsory vaccination and German Health Services are superfluous. The fertility of the Slavs is undesirable. They may use contraceptives or practise abortion, the more the better. Education is dangerous. It is enough if they can count up to a hundred. At best an education which produces useful stooges for us is admissible."

Himmler speaks with the same voice:-

1919 PS
US 170

> "We must be honest, decent, loyal and comradely to members of our own blood, to nobody else. What happens to a Russian, a Czech, does not interest me in the slightest. What the nations can offer in the way of good blood of our type we will take. If necessary by kidnapping their children and raising them here with us. Whether nations live in prosperity or starve to death interests me only in so far as we need them as slaves for our Kultur, otherwise it is of no interest to me."

The converse to methods designed to decrease the birthrate in occupied territories was the artificial increase in the birthrate of Germans. In February, 1941, the defendant Seyss-Inquart organised a system of giving away Dutch girls to German soldiers. In violation of Article 43 of the Hague Convention he ordered changes in the law of the Netherland so that he could assume parental and guardianship rights over girls, substituting himself for their parents if these refused their daughters permission to marry German soldiers.

Verordnungsblatt No. 8 March 3 1941, p. 139

This policy of Seyss-Inquart's was later confirmed by the supreme authorities of the GermanReich, Hitler, Keitel and Lammers on July 28th, 1942. A decree was issued granting subsidies and employment privileges for Dutch and Norwegian women bearing children to members of the German Armed Forces. It

H5156 - 0090

was a plan to transfer, as if it were some mercantile commodity, the biological resources of Holland and Norway to the use of the German people. Himmler was one of the advocates of stealing children: as he said on the 14th October, 1943:

L 70
USA 308

> "Obviously in such a mixture of peoples there will always be some racially good types. Therefore I think that it is our duty to take their children with us to remov them from their environment, if necessary by robbing or stealing them ... Either we win over any good blood that we can use for ourselves and give it a place in our people or .... we destroy this blood."

In the case of Russia, Keitel, who had learned the phrase "shrewdness and severity" as the maxim for the exploitation of Poland, paved the way by his orders of the

C 50
US 554

13th May and 23rd July, 1941. I quote from the latter, drafted on his own admission by Jodl:

C 52
GB 485
11167

> "In view of the vast size of the occupied areas in the East the forces available for establishing security in these areas will be sufficient only if all resistance is punished not by legal prosecution of the guilty but by the spreading of such terror by the armed forces as is appropriate to eradicate every inclination to resist among the population. Commanders must find the means of keeping order .... not by demanding more security forces but by applying suitable draconic methods".

The immediate needs of the war machine no doubt saved the Western Territories from similar dëstruction but the Tribunal have ample evidence of the plunder of France, the Low Countries and the other territories which these men exploited to the utmost possible extent. In view of the nature of their murderous policy, it is not surprising that the men charged by the defendants to carry it out were brutes. In Rosenberg's domain, for instance, there was Koch, who was recommended by Rosenberg for the post of Commissar in Moscow because of the very fact of his "absolute ruthlessness". It was Koch who caused the slaughter of several hundred innocent human beings in the Zuman wood area so that he could have a private hunting reserve. Another of Rosenberg's agents was Kube, who wrote:

3428 PS
USA 827

> "We have liquidated in the last ten weeks about 55,000 Jews in White Ruthenia. In the territory Minskland Jewry has been eliminated without endangering the manpower demands; in the pre-eminently Polish territory Lida 16,000 Jews, in Klin 8,000 Jews and so forth have been liquidated."

H5156 - 0091

As to Poland, the orders given Frank were as follows:-

EC 344
US 297

> "Ruthless expansion .... reduction of entire Polish economy to absolute minimum necessary for bare existence ... The Poles shall be the slaves of the greater German World Empire."

And we know how he carri d it out. In January 1940 he records:

2233 PS

> "Cheap labour must be removed from the General Government by hundreds of thousands. This will hamper the native biological propagation."

In May he speaks of:

> "taking advantage of the focussing of world interest on the Western Front by wholesale liquidations of thousands of the Poles, first the leading representatives of the Polish intelligentsia"

and in December:

> "Poles must feel they have only one duty; to work and to behave. We must carry out all measures ruthlessly: rely on me".

The details of the martyrdom of Poland cannot be described: A third of the people murdered; millions left impoverished; sick, maimed and helpless; liberati was just in time to save this ancient people from the terrible fulfilment of the programme which these men had plotted.

The extermination of the Jews.

There is one group to which the method of annihilation was applied on a scale so immense that it is my duty to refer separately to the evidence. I mean the extermination of the Jews. If there were no other crime against these men, this one alone, in which all were implicated, would suffice. History holds no parallel to these horrors.

M 13
GB 165

As soon as the prospects of a Second World War became a certainty, Streicher who had preached this infamous doctrine as far back as 1925 began earnest to advocate annihilation. As he, on his own admission, had been instrumental in effecting the Nuremburg Decrees by years of propaganda in favour of racial laws, so now, in January 1939, anticipating the war which was to come, he began, in articles published in the Sturmer with "the full

Streicher 21.

support of the highest Reich authority", to demand with all vehemence the physical extinction of the Jewish race. Unless words have completely lost their meaning, what do these mean but murder:

H5156 - 0092

"They must be exterminated root and branch" (mit Stumpf und Stiel auszurttung)

D 813
GB 357

"Then will the criminal race be forever eradicated" (ausgeloscht)

D 817
GB 340

"Then will they slay the Jew in masses" (erschlagen).

[illegible]41

"Prepare a grave from which there can be no resurrection" (ein Grab Bereiten).

Almost immediately after the war had started the organised extermination of the Jewish race began: Hoess has told you:

7813

"The final solution of the Jewish question means the complete extermination of all Jews in Europe. I was ordered to establish extermination facilities in Auschwitz in June 1941. At that time there were already in the General Government 3 other extermination camps, Belzek, Treblinka and Wolzek."

Already the Jews in Germany and Poland had been concentrated in the ghettos of the Government General. Over dinner in the Fuehrer's apartment in October 1940, Frank had explained that:

[illegible]04 PS
USSR 172

"The activities in the Government General could be termed very successful. The Jews inWarsaw and other cities were now locked up in ghettos. Krakow would very shortly be cleared of them. Reichsleiter von Schirach remarked that he still had more than 50,000 Jews in Vienna when Dr Frank would have to take over from him."

When the order actually came, therefore, the preparatory measures so far as they affected Poland and Germany had already been taken. Of the destruction of the ghettos and the slaughter of their populations General Stroop's report on the Warsaw action is eloquent. But the fate of the Jews in Warsaw was only typical of the fate of the Jews in every other ghetto in Poland.

1061 PS
USA 275

When they were not slaughtered in the ghettos themselves they were transported to the gas chambers. Hoess, Commandant of Auschwitz, described the procedure:

7813

"I visited Treblinka to find out how they carried out their extermination. The Camp Commandant at Treblinka told me that he had liquidated 80,000 in the course of one half-year. He was principally concerned with the liquidation of the Jews from the Warsaw ghetto."

Hoess describes the improvements that he made at Auschwitz. He introduced the new gas Cyclone B which

7813

"took from 3-15 minutes to kill the people in the death chamber, dependent upon climatic conditions. We knew when the people were dead because their screaming stopped .... Another improvement we made over Treblinka was that we built

our gas chambers to accommodate 2,000 people at a time, whereas at Treblinka their 10 gas chambers only accommodated 200 people each."

He describes the selection of the victims from the daily transports that arrived:

814 "Those who were fit for work were sent into the camp. Others were sent immediately to the extermination plant. Children of tender years were invariably exterminated since, by reason of their youth, they were unable to work. Still another improvement we made over Treblinka was that at Treblinka the victims almost always knew they were to be exterminated and at Auschwitz we endeavoure to fool the victims into thinking that they were going through a delousing process. Of course, frequently they realised our true intentions. Very frequently the women would hide their children under their clothes but of course when we found them we would send the children in to be exterminated ... We were required to carry out these exterminations in great secrecy, but of course the foul and nauseating stench from the continuous burning of bodies permeated the entire area and all the people living t in the surrounding communities knew that exterminations were going on at Auschwitz."

So also must they have known in the districts surrounding Belzek, Treblinka, Wolzek, Mauthausen, Sachsenhausen, Flossenburg, Neuengamme, Gusen, Natzweiler, Lublin, Buchenwald and Dachau.

I do not repeat these things in order to make the blood run cold. It is right that a few of these typical matters should b extracted from the great mass of evidence which is accumulated here so that one may see this thing in perspective and appreciate the cumulative effect of what has been proved.

Whilst the German Armies surged into Russia and the Baltic States, the Einsatz Commandos followed in their wake. Their dreadful work had been planned and prepared in advance. In the file describing the operations of the Task Force A there is a map

L.180 US.276 of the Baltic countries showing the number of Jews that were living in each State who were to be hounded out and killed. Another map shows the results achieved after those two or three months' work - a total of 135,567 Jews destroyed. In another report on their operations during October 1941 it is

PS 2273 US 487 proudly stated that they continued "on the march with the advancing troops into the sectors which have been assigned to them."

These actions were not only the work of the SS and Himmler.

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They were carried out in co-operation with the Army Commanders with the full knowledge of Keitel and Jodl and, indeed because every soldier fighting in the East must have known about them, with the knowledge also of every member of the Government and of the commanders of its Armed Forces.

L 180
US 276

> "Our task", so states the report of the Task Force A, "was hurriedly to establish personal contact with the commanders of the armies and with the commander of the rear army. It must be stressed from the beginning that co-operation with the armed forces was generally good. In some cases, for instance, with Panzer Group 4 under Col. Gen. Hoeppner, it was very close, almost cordial."

The German Generals were "almost cordial" as they weltered in the blood of hundreds of thousands of helpless, innocent men women and children. Perhaps they enjoyed this work - in the same way as the members of the Einsatz Commandos themselves apparently enjoyed it.

L 180
US 276

> "It should be mentioned", states the report, "that the leaders of the armed SS and of the uniformed police, who are reserves, have declared their wish to stay on with the Security Police and the SD".

Again and again in the reports of the Einsatz Commandos' progress, co-operation with the army authorities is emphasized. After describing how thousands of Lithuanian Jews had been made harmless during a particular pogrom in June, it is stated:

> "These self-cleansing actions went smoothly because the army authorities who had been informed showed understanding for this procedure."

Nor was it only cordiality and understanding that the army authorities showed. In some cases they themselves took the initiative. After describing the murder of inmates of lunatic asylums that had fallen into their hands, the Einsatz Commando report continues:

> "Sometimes authorities of the Armed Forces asked us to clear out in a similar way other institutions which were wanted as billets. However, as the interests of the Security Police did not require any intervention, it was left to the authorities of the Armed Forces to take the necessary action with their own forces."

And again:

> "The advance of the forces of Action Group A

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which were intended to be used for Leningrad was effected in agreement with and on the express wish of Panzer Group 4.

How can operations of this kind, extending for months and years over vast territories, carried out with the co-operation of the Armed Forces as they advanced and in the rear areas that they administered have remained unknown to the leaders in Germany? Even their own Commissioners in the occupied ter ..tories protested. In October 1941 the Commissioner for White Ruthenia was forwarding to the Reich Commissioner for Eastern Territories at Riga a report o. the operations in his district. Some idea of the horror of those operations can be seen from the report.

1104 PS
US.483

> "Regardless of the fact that the Jewish people, among whom were also tradesmen, were mistreated in a terribly barbarous way in the face of the White Ruthenian people, the White Ruthenians themselves were also worked over with rubber clubs and rifle butts.... the whole picture was generally more than ghastly .... I was not present at the shooting before the town. Therefore I cannot make a statement on its brutality. But it should suffice if I point out that persons shot have worked themselves out of their graves some time after they had been covered."

But protests such as this were of no avail; the slaughter continued with unabated ghastliness.

In February 1942, in Heyd..ch's activity and situation Report on the Einsatz Commandos in the U.S.S.R., of which a copy was addressed to Kaltenbrunner personally, it was stated:

3876 PS
US. 808

> "We are aiming at cleansing the Eastern countries completely of Jews...Estonia has already been cleared of Jews. In Latvia the number of Jews in Riga, of which there were 29,500 has now been reduced to 2,500."

By June 1943 the Commissioner for White Ruthenia was again protesting. After referring to 4,500 enemy dead, he says:

> "The political effect of this large scale operation upon the peaceful population is simply dreadful in view of the many shootings of women and children."

The Reich Commissar for Eastern Territories, for-

warding that protest to Rosenberg, the Reich Minister

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Minister for Occupied Eastern Territories in Berlin, added:-

1475 PS
US 239

> "The fact that Jews receive special treatment requires no further discussion. However, it appears hardly believable that this is done in the way described in the report of the General Commissar. What is Katyn against that? Imagine only that these occurrences would become known to the other side and exploited by them. Most likely such propaganda would have no effect if only because people who read and heard about it simply would not be ready to believe it".

Describing the difficulty of distinguishing between friend and foe, he says:

> "Nevertheless, it should be possible to avoid atrocities and to bury those who have been liquidated. To lock men, women and children into barns and set fire to these does not appear to be a suitable method of combatting bands, even if it is desired to exterminate the population. This method is not worthy of the German cause and hurts our reputation severely".

L 180
US 276

Of those Jews murdered in White Ruthenia, over 11,000 were slaughtered in the district of Libau, and 7,000 of

D841
GB 474

them had been killed in the naval port itself.

How can any of these Defendants plead ignorance of these things? When Himmler was speaking of these actions openly amongst his S.S. Generals and all the officers of his S.S. Divisions in April 1943, he told them:

PS 1918
US 304

> "Anti-semitism is exactly the same as delousing. Getting rid of lice is not a question of ideology: it is a matter of cleanliness. In just the same way, anti-semitism for us has not been a question of ideology but a matter of cleanliness which now will soon have been dealt with. We shall soon be deloused. We have only 20,000 lice left, and then the matter is finished off within the whole of Germany".

And again in October of that year:

1919 PS
US 170

> "Most of you must know what it means when 100 corpses are lying side by side, or 500, or 1,000".

Meanwhile, the mass murder of the Jews at Auschwitz and the other extermination centres was becoming a State industry with many by-products. Bales of hair, some of it, as you will remember, still plaited as it had been shorn

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off the girls' heads, tons of clothing, toys, spectacles and other articles went back to the Reich to stuff the chairs and clothe the people of the Nazi State. The gold from their victims' teet 72 transports full, went to fill the coffers of Funk's Reichsbank. Even the

U.S.S.R. 272

bodies of their victims were used to make good the war-time shortage of soap.

The victims came from all over Europe. Jews from

7811

Austria, Czechoslovakia, Hungary, Rumania, Holland, Soviet Russia, France, Belgium, Poland and Greece were being herded together to be deported to the extermination centres or to be slaughtered on the spot.

In April, 1943, Hitler and Ribbentrop were pressing the Regent Horthy to take action against the Jews in Hungary. Horthy asked:

D 736
GD 283

> "What should he do with the Jews now that he had deprived them of almost all possibilities of livelihood; he could not kill them off. The Reich Foreign Minister declared that the Jews must be either exterminated or taken to concentration camps. There was no other possibility".

Hitler explained:

> "In Poland the state of affairs had been fundamentally cleared up. If the Jews there did not want to work they were shot. If they could not work they had to succomb. They had to be treated like tuberculosis baccillae. This was not cruel if one remembered that even innocent creatures of nature, such as hares and deer, have to be killed so that no harm is caused by them".

In September, 1942, Ribbentrop's State Secretary, Luther, was writing:

> "The Reich Foreign Minister has instructed me today by telephone to hasten as much as possible the evacuation of the Jews from different countries... After a short lecture on the evacuation now in progress in Slovenia, Croatia, Rumania and the Occupied Territories, the Reich Foreign Minister has ordered that we are to approach the Bulgarian, Hungarian and Danish Governments with the goal of getting evacuation started in those countries."

PS 3688
NF 1502

7811

By the end of 1944, 400,000 Jews from Hungary alone had been executed in Auschwitz. In the German Embassy in Bucharest, the files contained a memorandum:

> "110,000 Jews are being evacuated from Bukovina and

H5156 - 0098

PS 3319
GD 287

Bessarabia into two forests in the area of the river Bug .... The purpose of the action is the liquidation of these Jews."

Day by day, over years, women were holding their children in their arms and pointing to the sky while they waited to take their place in blood-soaked, communal graves. 12,000,000 men, women and children have died thus, murdered in cold blood; millions upon millions more today mourn their fathers and mothers, their husbands, wives and children. What rights has any man mercy who has played a part - however indirectly - in such a crime?

Let Graebe speak again of Dubno:

PS 2992
US 494

"On 5th October 1942, when I visited the building office at Dubno my foreman told me that in the vicinity of the site, Jews from Dubno had been shot in three large pits, each about 30 metres long and 3 metres deep. About 1,500 persons had been killed daily. All of the 5,000 Jews who had still been living in Dubno before the pogrom were to be liquidated. As the shooting had taken place in his presence he was still much upset.

Thereupon I drove to the site, accompanied by my foreman and saw near it great mounds of earth, about 30 metres long and 2 metres high. Several trucks stood in front of the mounds. Armed Ukrainian militia drove the people off the trucks under the supervision of an S.S. man. The militia men acted as guards on the trucks and drove them to and from the pit. All these people had the regulation yellow patches on the front and back of their clothes and thus could be recognised as Jews.

My foreman and I went directly to the pits. Nobody bothered us. Now I heard rifle shots in quick succession from behind one of the earth mounds. The people who had got off the trucks - men, women and children of all ages - had to undress upon the orders of an S.S. man, who carried a riding or dog whip. They had to put down their clothes in fixed places, sorted according to shoes, top clothing and underclothing. I saw a heap of shoes of about 800, to 1,000 pairs, great piles of under linen and clothing. Without screaming or weeping these people undressed, stood around in family groups, kissed each other, said farewells, and waited for a sign from another S.S. man, who stood near the pit, also with a whip in his hand. During the 15 minutes that I stood near I heard no complaint or plea for mercy. I watched a family of about 8 persons, a man and a woman both about 50 with their children of about 1, 8 and 10, and two grown up daughters of about 20 - 24. An old woman with snow-white hair was holding the one year old child in her arms and singing to it and tickling it. The child was cooing with delight. The couple were looking on with tears in their eyes. The father

was holding the hand of a boy about 10 years old and speaking to him softly; the boy was fighting his tears. The father pointed to the sky, stroked his head, and seemed to explain something to him. At that moment the SS man at the pit shouted something to his comrade. The latter counted off about 20 persons and instructed them to go behind the earth mound. Among them was the family which I have mentioned. I well remember a girl, slim and with black hair who, as she passed close to me, pointed to herself and said, "23". I walked around the mound and found myself confronted by a tremendous grave. People were closely wedged together and lying on top of each other so that only their heads were visible. Nearly all had blood running over their shoulders from their heads. Some of the people shot were still moving. Some were lifting their arms and turning their heads to show that they were still alive. The pit was already two thirds full. I estimated that it already contained about 1,000 people. I looked for the man who did the shooting. He was an SS man, who sat at the edge of the narrow end of the pit , his feet dangling into the pit. He had a tommy gun on his knees and was smoking a cigarette. The people, completely naked, went down some steps which were cut in the clay wall of the pit and clambered over the heads of the people lying there, to the place to which the SS man directed them. They laid down in front of the dead or injured people; some caressed those who were still alive and spoke to them in a low voice. Then I heard a series of shots. I looked into the pit and saw that the bodies were twitching or the heads lying motionless on top of the bodies which lay before them. Blood was running away from their necks. I was surprised that I was not ordered away but I saw that there were two or three postmen in uniform nearby. The next batch was approaching already. They went down into the pit, lined themselves up against the previous victims and were shot. When I walked back round the mound I noticed another truck load of people which had just arrived. This time it included sick and infirm persons. An old, very thin woman with terribly thin legs was undressed by others who were already naked, while two people held her up. The woman appeared to be paralysed. The naked people carried the woman around the mound. I left with my foreman and drove in my car back to Dubno.

On the morning of the next day, when I again visited the site, I saw about 30 naked people lying near the pit - about 30-50 metres away from it. Some of them were still alive; they looked straight in front of them with a fixed stare and seemed to notice neither the chilliness of the morning nor the workers of my firm who stood around. A girl of about 20 spoke to me and asked me to give her clothes and help her escape. At that moment we heard a fast car approach and I noticed that it was an SS detail . I moved away to my site. Ten minutes later we heard shots from the vicinity of the pit. The Jews still alive had been ordered to throw the corpses into the pit; then they had themselves to lie down in this to be shot in the neck."

That no man in that dock can have remained ignorant of the horrors perpetrated to support the Nazi war machine and the policy of genocide becomes the more clear when you consider the evidence with regard to another great crime little heard of during the course of this trial but which, as clearly as any other, illustrates

H5156 - 0099

the wickedness of these men and of their regime - the murder of some 275,000 persons by so-called mercy killing. To what base uses that beautiful word was put!

PS 1556
(USA 716)

Some time in the summer of 1940 Hitler secretly ordered the murder of ill and aged people in Germany who were no longer of productive value to the German war machine. Frick, more than any other man in Germany, was responsible for what took place as a result of that decree. Of his knowledge and of the knowledge of a great many people in Germany there is abundant evidence. In July 1940, Bishop Wurm was writing to Frick:

M 152
(GD 530)

> "For some months past, insane, feeble-minded and epileptic patients of State and private medical establishments have been transferred to another institution on the orders of the Reich Defence Council. Their relatives, even when the patient was kept at their cost, are not informed of the transfer until after it has taken place. Mostly they are informed a few weeks later that the patient concerned has died of an illness and that owing to the danger of infection the body has had to be cremated. At a superficial estimate several hundred patients of an institution in Wurttemberg alone must have met their death in this way..... Owing to numerous enquiries from town and country and from the most variegated circles, I consider it my duty to point out to the Reich Government that this fact is causing a particular stir in our small province. Transports of sick people who are unloaded at the small railway station of Marbach, the buses with opaque windows which bring sick persons from more distant railway stations or directly from the institutions, the smoke which rises from the crematorium and which can be noticed even from a considerable distance.. all this gives rise to speculation as no-one is allowed into the Castle...Everybody is convinced that the causes of death which are published officially are selected at random. When, to crown everything, regret is expressed in the obituary notice that all endeavours to preserve the patient's life were in vain, this is felt as a mockery. But it is above all the air of mystery which gives rise to the thought that something is happening which is contrary to justice and ethics and cannot therefore be defended by the Government. This point is continually stressed by simple people as well as in the numerous oral and written statements which come to us."

Frick's ears were deaf to such pleas for justice and ethics.

A year later, in August 1941, the Bishop of Limbourg wrote to the Reich Ministries of the Interior, of Justice, and Church Affairs.

PS 615
(USA 717)

> "About 8 km. from Limbourg in the little town of Hadamar, on a hill overlooking the town there is an institution which had formerly served various purposes and of late has been used as a nursing home. This institution was renovated and furnished as a place in which, by consensus of opinion, the above mentioned euthenasia has bben systematically practised for months, approximately since February 1941. The fact has become known beyond the administrative district of Wiesbaden.....Several times a week buses arrive in

H5156 - 0100

H5156 - 0101

> Hadamar with a considerable number of such victims. School children of the vicinity know this vehicle and say:"There comes the murder box again." After the arrival of the vehicle citizens of Hadamar watch the smoke rise out of the chimney and are tortured with the thoughts of the misery of the victims, especially when repulsive odours annoy them. The effect of the principles at work here are that children call each other names and say: "You're crazy, you will be sent to the baking ovens in Hadamar". Those who do not want to marry or find no opportunity say: "Marry! never! Bring children into the world so that they can be put into the bottling machine!" You hear old folks say: "Don't send me to a State Hospital: after the feeble minded have been finished off the next useless eaters whose turn it will be are the old people".... Officials of the Secret State Police, it is said are trying to suppress discussion of the Hadamar occurrences by means of severe threats. In the interests of public peace this may be well intended, but the knowledge and the conviction and the indignation of the population cannot be changed by it. The conviction will be increased with the realisation that discussion is prohibited with threats but that the actions themselves are not prosecuted under penal law. Facta loquntur."

If the common people of Germany knew and were complaining of these relatively insignificant murders, when the Ministries of Justice, of the Interior and of Church Affairs were receiving protests from the Bishops of two districts far removed from each other on what was common knowledge in their dioceses, how much greater were the security problems of the Einsatz Commandos in the East. In May 1942 an SS leader reporting to Berlin on a tour of inspection of the progress of the extermination drive wrote of the gas vans:

501 PS
(US 288)

> "By having small windows introduced, one on each side of the smaller van and two on each side of the bigger van, such as one often sees on peasants' houses in the country, I have had the vehicles in group D disguised to look like vans for living in. The cars are so well known that not only the authorities but also the civilian population allude to it as the "Death Car" as soon as one of these vehicles appears. In my opinion even with camouflage it cannot be kept secret for any length of time."

Can these defendants have remained in ignorance?

This slaughter of the aged and imbeciles - the subject of gossip throughout Germany and of articles in the world press - must have been known to every one of these men. How much more then must they have known of the concentration camps which, during these years, covered like a rash the whole of Germany and the occupied territories. If they could acquiesce in the mercy killings, with what favour they must have regarded the extermination of the Jews.

H5156 - 0102

3673 PS
(GB 326)

In 1939 there had been six main concentration camps - Dachau, Sachsenhausen, Buchenwald, Mauthausen, Flossenburg and Ravensbruck. Frick's budget for the Ministry of the Interior for that year includes a sum of RMS. 21,155,000 for armed SS and concentration camps - no less than a fifth of the total budget. By April 1942 there had been added to those six camps nine more. More were to follow afterwards.

D 626
(USA 810)

But these were only the core of the system. Like planets, each of them had its attendant satellites. Kierein has given you some idea of the extent of this system. He describes the subsidiary camps that were based on Mauthausen alone. 33 of them he mentioned by name, giving the numbers of prisoners at each - a total of over 102,000. Besides those 33, there were another 45, also all under the authority of the Mauthausen Commandant.

F 321
(RF 331)

You have seen the map of Europe showing the location of as many of these main subsidiary concentration camps as are known. Over 300 of them are marked on that map.

By August, 1944, there was a total of 1,136,000

H5156-0103

prisoners, which included 90,000 from Hungary, 60,000 from the Police prison and ghetto of Litzmannstadt, 15,000 Poles from the Government General, 10,000 convicts from eastern territories, 1700 former Polish officers, 400,000 Poles from Warsaw and between 15,000 - 20,000 continually arriving from France.

11 6 PS

These were only the physically fit and therefore permanent residents - permanent, at least, until through physical exhaustion their productive capacity was no longer worth the nuisance that their continued existence meant. Then they took their place in the daily detail for the gas chambers.

Day after day the chimneys of the crematoria belched their nauseating stench over the countryside. When the Bishop of Limbourg could write to Frick of the repulsive odours from the comparatively insignificant ovens at Hadamar, can we doubt the evidence of Hoess that

7814

> "the foul and nauseating stench from the continuous burning of bodies permeated the entire area and all the people living in the surrounding communities knew that extermination were going on at Auschwitz."

Day after day trainloads of victims travelled over the railroads of the whole Reich on their way to their extermination or their slavery. Many arrived dying and even dead through the appalling conditions under which they journeyed. An official at the railway station at Essen has described the arrival of workers from Poland, Galicia and the Ukraine:

D 321

> "They came in goods wagons in which potatoes, building materials and also cattle had been transported. The trucks were jammed full with people. My personal view was that it was inhuman to transport people in such a manner. The people were squashed closely together and they had no room for free movement. It was enraging to every decent German to see how the people were beaten and kicked and generally maltreated in a brutal manner. In the very beginning, as the first transports arrived, we could see how inhumanely these people were treated. Every wagon was so overfull that it was incredible that such a number could be jammed into one wagon..... The clothing of the prisoners of war and civilian workers was catastrophic. It was ragged and ripped and the footwear was the same. In some cases they had to go to work with rags round their feet. Even in the worst weather and bitterest cold I have never seen that any of the wagons were heated."

H5156-0104

Those men were not destined for concentration camps. How much worse the conditions of those who were. Great columns, too, trekked on foot along the highways of the Reich. They walked until they could walk no more; then they died by the side of the road. Ziereis, Commandant of Mauthausen, in his dying confessi says;

D 626
US 810

> "In the presence of Baldur von Schirach and others I received the following order from Himmler:
>
> "'All Jews of localities in the south east, working on the socalled fortification-commands, are to be sent on foot to Mauthausen.'"
>
> "In consequence of this order we were expecting to receive 60,000 Jews at Mauthausen, but in fact only a small fraction of this number arrived. I remember that out of one convoy of 4,500 Jews which started out from somewhere in the country, only 180 arrived. The women and children had been without shoes and clothes and were very verminous. In that convoy complete families had started out together but an immense number had died on the way from exposure, weakness, etc."

Now whatever may have been hidden from view behind the stockades of the concentration camps, these things were open for all to see. Every one of these defendants must have seen them and the thousand of concentration camp prisoners working in the fields and factori adorned in their striped pyjamas - a uniform that was as familiar as any other in Germany.

How possibly could any one of these defendants, had he even a spark of human pity, have continued to take active part in support of a system that was responsible for such suffering? But they had no pity - and by their ideology and teaching they had deprived the German people of pity.

Ziereis describes the frightful end that Kaltenbrunner contemplated for the concentration camps and their inmates when the advancing Allied Armies brought with them the danger of capturing these camps and of disclosing the guilt of the Nazi Government:

3870 PS
US 797

> "Prisoners were to be led into the tunnels of the factory Bordkristall and the only entrance was to be blown up by the use of explosive and the death of the prisoners was to be effected in this manner."

Even Ziereis, murderer of Mauthausen's 65,000 dead, shied and refused that order.

H5156 - 0105

That evidence is corroborated beyond question by the written order issued by the Commandant of the Sipo and SD in the Governm General, which has been put in evidence:

L 53
US 291

> "Should the situation at the front necessitate it, early preparations are to be made for the total clearance of prisoners. Should the situation develop suddenly, in such a way that it is impossible to evacuate the prisoners, the present inmates are to be liquidated and their bodies disposed of as far as possible (burning, blowing up the building etc.). If necessary, Jews still employed in the armament industry or on other work are to be dealt with in the same way. The liberation of prisoners or Jews by the enemy, be it the Western enemies or the Red Army, must be avoided under all circumstances. Nor may they fall into their hands alive."

And Kaltenbrunner himself saw to it that these orders should be carried out. With this evidence before us, there can be only one meaning to that teleprint message which was found amongst his papers on his arrest:

2519 PS
US 530

> "Please inform the Reichsfuehrer SS and report to the Fuehrer that all arrangements against Jews, political and concentration camp internees in the Protectorate have been taken care of by me personally today."

The proposition which you are asked to accept is that a man who was either a Minister or a leading executive in a State which, within the space of six years, transported in horrible conditions some 7,000,000 men, women and children for labour, exterminated 275,000 of its own aged and mentally infirm and annihilated in th gas chambers or by shooting what must at the lowest computation be 12,000,000 people, remained ignorant of or irresponsible for t crimes. You are asked to accept that the horrors of the transports, of the conditions of this slave labour, deployed as it was in labour camps throughout the country, the smell of the burning bodies, all of which were known to the world, were not known to these 21 men by whose orders such things were done. When they s oke or wrote in support of this horrible policy of genocide you are asked to accept that their utterances were made in ignorance of the facts, as part of their general duty to support the policy of their Government, or finally, should be regarded as mainly tactical - that is to say, that only by talking or writing in such a way could they divert Hitler from cruelty or aggression. It is

H5156-0106

for you to decide.

Goering, Hess, Ribbentrop, Keitel, Kaltenbrunner, Rosenber Frank, Frick, Streicher, Funk, Schacht, Doenitz, Raeder, Schira Sauckel, Jodl, Von Papen, Seyss-Inquart, Speer, Von Neurath, Fritzsche, Bormann - these are the guilty men.

Let me make brief comments upon each one of them, but in particular upon those whose close complicity in the most sordid crimes of all, the bestial murders, has possibly been less manif

Goering's responsibility in all these matters is scarcely to be denied. Behind his spurious air of bonhomie, he was as great an architect as any in this satanic system. Who, apart from Hitler, had more knowledge of what went on, or greater ability to influence its course? The conduct of government in the Nazi State, the gradual build up of the organization for war, the calculated aggression, the atrocities - these things do not occur spontaneously or without the closest co-operation between the holders of the various offices of State. Men do not advance int foreign territory, pull the trigger, drop their bombs, build the gas chambers, collect the victims, unless they are organized and ordered to do it. Crimes on the national and systematic scale which occurred here must involve anyone who forms a part of the necessary chain, since without this participation, plans for aggression here, mass murder there, would be rendered impossible. The Fuhrer principle by which the Nazis placed their bodies and their very souls at the disposal of their leader was the creation of the Nazi Party, and of these men. When I addressed you before I remarked that there comes a time when a man must choose between his conscience and his leader. No one who chose, as these men did, to abdicate their consciences in favour of this monster of their own creation can complain if they are held responsible for complicity in what their monster did.

And least of all, Hess. The role Hess played in the Nazi Party is well established. But not content with creating the Monster, he aided it in every aspect of its monstrous work.

H5156 - 0107

I mention only one instance. You will recall, in connection with the extermination of the Eastern peoples, his direction to Party Officials to support recruitment for the Waffen SS, which

3245 PS
GB 267

> "consists of National Socialists who are more suitable than other armed units for the specific tasks to be solved in the occupied eastern territories, owing to their intensive National Socialist training in regard to questions of race and nationality."

Ribbentrop's part, also, is clear. No one in history has so debauched diplomacy: no one been guilty of meaner treachery. But he, like the rest, is just a common murderer. Ribbentrop it was who, since 1940, had been directing the minions in his

EC 265
RF 1504

embassies and legations throughout Europe to accelerate the executio of such "political measures" that is, measures of racial extermina-

PS 3688
RF 1502

tion. It was not Himmler, but the Reich Foreign Minister who proudly reported to the Duce in February, 1943, that

D 734
RF 1501

> "All Jews had been transported from Germany and from the territories occupied by her to reserves in the East."

D 736
GB 283

His bald recommendations to Horthy two months later and the record of the conference called by Steengracht, his permanent Under Secret-

3319 PS
GB 287

ary of State, betray these ghastly euphemisms.

No one was more insistent on merciless action in the occupied territories than Ribbentrop. You will remember his advice to the Italians on how to deal with strikes:

D 740
GB 297

> "In such a case only merciless action is any good. In the occupied territories we would not get anywhere with soft measures in the endeavour to reach an agreement."

Advice which he proceeded to reinforce by referring with pride to the successes of "brutal measures" in Norway, "brutal action" in Greece, and in France and Poland the success of "Draconian" measures.

Were Keitel and Jodl less involved in murder than their confederates? They cannot deny knowledge or responsibility for the operations of the Einsatz Commandos with whom their own Commanders were working in close and cordial co-operation. The attitude of the High Command to the whole question is typified by Jodl's remark about the evacuation of Danish Jews:

H5156-0108

PS 447
USA 488

> "I know nothing of this. If a political measure is to be carried out by the Commander, Denmark, the OKW must be notified by the Foreign Office."

You cannot disguise murder by calling it a political measure.

PS 3876
(USA 808)

Kaltenbrunner, as chief of the R.S.H.A., must be guilty. The Reports of the Einsatz Commandos were sent to him monthly. You will remember the words of Gisevius, a witness for the defence,

> "We asked ourselves whether it was possible that an even worse man could possibly be found after such a monster as Heydrich..... Kaltenbrunner came.... and things got worse every day.... We had the experience that perhaps the impulsive actions of a murderer like Heydrich were not as bad as the cold legal logic of a lawyer who was handling such a dangerous instrument as the Gestapo."

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427/8

You will remember his description of those horrible luncheon parties at which Kaltenbrunner discussed every detail of the gas chambers and of the technique of mass murder.

Rosenberg's guilt as the philosopher and theorist who made the groundfertile for the seeds of Nazi policy is not in doubt, and it is beyond belief that, as Reich Minister for Eastern Occupied Territories, he did not know of and support the destruction of the ghettos and the operations of the Einsatz Commandos. In October, 1941, when the operations of those Commandos were at their height, one of Rosenberg's ministerial department chiefs was writing to the Reich Commissioner for the East in Riga informing him that the Reich Security Main Office had complained that he had forbidden the executions of the Jews in Libau and asking for a report upon the matter. On 15th November the report comes back addressed to the Reich Minister for Occupied Eastern Territories:

PS 3663
USA 825

> "I have forbidden the wild executions of Jews in Liepaja because they were not justifiable in the manner in which they were carried out. I should like to be informed whether your enquiry of 31st October is to be regarded as a directive to liquidate all Jews in the East? Shall this take place without regard to age and sex and economic interests? ..... Of course, the cleansing of the East of Jews is a necessary task; its solution, however, must be harmonised with the necessities of war production."

H5156 - 0109

Frank - if it is not sufficient to convict him that he was responsible for the administration of the Government General or for one of the bloodiest and most brutal chapters in Nazi history - has himself stated:

2233(C) PS
US 271

"One cannot kill all lice and all Jews in one year."

2468

It is no coincidence that that was Himmler's language. And again:

9442

H5156-0110

PS 2233 D
US 281

> "As far as the Jews are concerned I want to tell you quite frankly that they must be done away with in one way or another.....Gentlemen, I must ask you to rid yourselves of all feeling of pity. We must annihilate the Jews wherever we find them and whenever it is possible in order to maintain the structure of the Reich as a whole.....We cannot shoot or poison 3,500,000 Jews, but we shall nevertheless be able to take measures which will lead somehow to their annihilation."

Can Frick, as Minister of the Interior, have been unaware of the policy to exterminate the Jews? In 1941 one of his subordinates, Heydrich, was writing to another - The Minister of Justice:-

R 96
GB 268

> "It may safely be assumed that in the future there will be no more Jews in the annexed Eastern territories."

Can he, as Reich Protector for Bohemia and Moravia deny responsibility for the deportation of hundreds of thousands of Jews from his territory to the gas chambers of Auschwitz, only a few miles across the frontier?

Of Streicher one need say nothing. Here is a man more responsible, perhaps, than any, for the most frightful crime the world has ever known. For 25 years the extermination of the Jew had been his terrible ambition. For 25 years he had educated the German people in the philosophy of hate, of brutality, of murder. He had incited and prepared them to support the Nazi policy, to accept and participate in the brutal persecution and slaughter of millions of his fellow men. Without him these things could not have been. It is long since he forfeited all right to live.

The fact that the defendants Schacht and Funk dealt chiefly with economics must not blind the Tribunal to their important part in the general plan. Schacht says he had clean hands in this business. It is for you to say. Schacht played his part in bringing Hitler to power. He says he thought he was "a man with whom one could co-operate", and assured Hitler that he could always count on him "as your reliable assistant". He helped to consolidate the Nazi position and was the main figure in collectin

EC 457
US 619

H5156 - 0111

election funds from the industrialists. It then became his task to provide the economic plan and machinery necessary to launch and maintain aggression. He knew the policy about the Jews, he knew the methods Hitler was using to build up his power, he knew the ultimate aim was aggression. But he continued to play his part. Messersmith has summed up his work:

> "Yet by Schacht's resourcefulness, his complete financial ruthlessness and his absolute cynicism Schacht was able to maintain and to establish the situation for the Nazis. Unquestionably, without this complete lending of his capacities to the Nazi Government, and all of its ambitions it would have been impossible for Hitler and the Nazis to develop an armed force sufficient to permit Germany to launch an aggressive war."

EC 451
US 626

The fact that that was in Schacht's mind was shown at a very early date most clearly in a secret report issued by his Ministry of Economics on 30th September 1934. I have already referred to his Deputy's report showing the amazing detail in which plans and preparations for the management of German economy in time of war had been worked out before Schacht resigned in 1937.

EC 128
US 623

EC 258
US 625

It is not surprising that on Schacht's 60th birthday the German Minister of War, von Blomberg, said to him:

> "Without your help, my dear Schacht, none of this armament could have taken place".

8879

In the witness box Schacht says that as early as the second half of 1934 and the first half of 1935 he found he was "wrong in thinking" that Hitler would bring the "revolutionary forces" of Nazism into the regular atmosphere and he discovered that Hitler did nothing to stop the excesses of individual Party Members or Party Groups. He was pursuing a "policy of terror".

8689

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This accords with Schacht's statement to the American Ambassador in September 1934:

> "....the Hitler Party is absolutely committed to war and the people too are ready and willing. Only a few Government officials are aware of the danger and are opposed."

EC 451
US 626

H5156 - 0112

Schacht's further suggestions that his purpose in the Government was to be critical and to act as a brake are impossible to reconcile with his own actions. He need not have become Minister of Economics according to his own account, but he did so. In May, 1935, the month in which he undertook his task as

2261 PS
US 24

General Plenipotentiary for War Economy, "to put all economic forces in the service of carrying on the war and to secure the life of the German people economically," he wrote to Hitler:

> "All expenditures which are not urgently needed in other matters must stop and the entire, in itself small, financial power of Germany must be concentrated toward the one goal - to arm."

1168 PS
US 37

In May 1936 he told a secret meeting of Nazi Ministers that

1301 PS
US 123

his programme of financing armaments by meant "the commitment of the last reserve from the beginning." He said he would continue to work since he stood "with unswerving loyalty to the Fuehrer because he fully recognises the basic idea of National Socialism."

In 1937, when Hitler bestowed the Golden Party badge upon him, Schacht appealed to all his colleagues:

> "further to devote with all their hearts their entire strength to the Fuehrer and the Reich. The German future lies in the hands of our Fuehrer."

EC 500
8863

The mercy killings; the persecution of the Jews. These things must have been known at that time. Were his hands so clean?

In view of these quotations it is not unexpected to find Ambassador Dodd, whom Schacht counted among his friends, recalling in his diary on 21.12.37:

> "Much as he dislikes Hitler's dictatorship he (Schacht) as most other eminent Germans wishes annexation, without war if possible, with war if the United States will keep hands off."

EC 401
8849/50

These quotations make it clear that Schacht knew well that Hitler's aim was war very much earlier than he himself admits. He does admit, however, that he knew that the plot to discredit General von Fritsch meant war. Despite this knowledge, on 9.3.38,

H5156-0113

8355
8902

he accepted the appointment as Reichsbank President for an additional four years. He joyously took part in the acquisition of the former Austrian National Bank on 21.3.38 and on 7.6.39 wrote to Hitler:

> "From the beginning the Reichsbank has been aware of the fact that a successful foreign policy could be attained only by the reconstruction of the German Armed Forces. It therefore assumed to a very great extent the responsibility to finance the rearmament in spite of the inherent dangers to the currency. The justification thereof was the necessity - which pushed all other considerations into the background - to carry through the armament at once, out of nothing and furthermore under camouflage which made a respect - commanding foreign policy possible."

EC 369
US 631

These words, and others like them, are merely putting in fine phrases Schacht's knowledge that, if the proposed victims resisted, Hitler was prepared to plunge into war conditions to achieve his aims. Schacht's intellect and international position only increases the cynical immorality of his crimes.

Moreover Schacht must face these facts. The Tribunal has seen the evidence of the film which showed his sycophantic trotting beside Hitler and smarming over him in 1940. Long before 1943 he must have known of the treatment of the Jews and the reign of terror in occupied countries. Yet until 1943 Schacht remained a Minister without Portfolio and lent his name and weight to this regime of horror. Should anyone be left to boast that he did this with impunity?

Funk carried on Schacht's work. He had already rendered invaluable service to the conspirators by his organisation of the Ministry of Propaganda. From 1938 on he was Minister of Economics, President of the Reichsbank and Chief Plenipotentiary for Economics, mobilising economy for aggressive war well knowing the Nazi plans for aggression. We find him in every field; attending Goering's conference on 12th November 1938, the meeting of the Reich Defence Council in June 1939, advising on decrees to be

H5156 - 0114

issued against the Jews at the former and the employment of concentration camp and slave labour at the latter. The final proof of the welcome with which he viewed aggression is found in his letter to Hitler on the 25th August 1939, the day before the invasion of Poland was first scheduled to begin:

699 PS
GB 49

> "How happy and how grateful we must be to you to be favoured to experience these colossal and world-moving times, and that we can contribute to the tremendous events of these days. General Field Marshal Goering informed me last night that you - my Fuehrer - have approved in principle the measures prepared by me for financing the war, for setting up the wage and price system and for carrying out the plan for an emergency contribution.
>
> With the proposals worked out by me regarding a ruthless choking of any unessential consumption and any public expenditure and project not necessary for war, we will be able to meet all financial and economic demands without any serious reverberations."

His part during the war needs no further mention than reference to the minutes of the Central Planning Board and to his arrangement with Himmler for the exploitation of the S.S. loot which, as he knew, came in truckloads from Auschwitz and the other concentration camps to the vaults of the Reichsbank.

1166 PS
US 458

The Tribunal will also remember the document which shows that his Ministry of Economics received enormous quantities of civilian clothes from these unfortunate victims.

PS 2878
GB 187

Was Doenitz ignorant, when he addressed to a Navy of some 600,000 men, a speech on the "spreading poison of Jewry"?

C 171
GB 210

Doenitz, who thought fit to circulate to the Naval War Staff Hitler's directive for dealing with the general strike at

C 195
GB 211

Copenhagen - "terror should be met by terror" - and asked for 12,000 concentration camp workers for the shipyards, recommending collective reprisals for Scandinavian workers in view of the efficacy of similar methods in France.

Are Raeder's hands unstained with the blood of murder? As early as 1933, to use his own words:

C 135
GB 213
9747-9

> "Hitler had made a clear political request to build up by the 1st April 1938 armed forces which he could put in the balance as an instrument of political power."

H5156 - 0115

When, therefore, he received successive orders to fight if war resulted from Hitler's foreign policy, he knew very well that war was a certain risk if that policy went awry. Again and again he had this warning, first when Germany left the Disarmament Conference, again at the time of the negotiations for the Naval Agreement in 1935, [illegible]he time of the Rhineland and later when he attended the famous Hosbach conference. He has tried to persuade this Tribunal that he regarded Hitler's speeches at these meetings as mere talk, yet

H5156-0116

we know that they gave Neurath a heart attack. His old Service comrades, von Blomberg and von Fritsch, who were unwise enough to object at the Conference which sealed the fate of Austria and Czechoslovakia, were dealt with in a manner which, in his own words, shook his confidence not only in Goering but in Hitler also.

841
EB 474

Can Raeder have been ignorant of the murder of thousands of Jews at Libau in the Baltic? You will remember the evidence that many were killed in the naval port and the facts reported by his naval officers at the Local Headquarters to Kiel. We now know from the report of the Commando which dealt with the Jews of Libau that at the end of January 1942 they had accounted for 11,860 in that district alone. Raeder who, on Heroes Day, 1939, spoke of the clear and inspiring summons to fight international Jewry. Do you really believe that he, who says he was always helping individual Jews, had never heard of the horrors of concentratipn camps or the murder of millions? Yet he still went on.

L 180
US 276

D 653
GB 232

3/N 10001

Von Schirach. What need one say of him? That it were better that a millstone had been placed round his neck.....? It was this wretched man who perverted millions of innocent German children so that they might grow up and become what they did become - the blind instruments of that policy of murder and domination which these men carried out.

031 PS
US 171

The infamous "Heu Aktion" by which between forty and fifty thousand Soviet children were kidnapped into slavery was a product of his work. You will remember the weekly S.S. reports on the extermination of the Jews found in his office.

345 PS
US 869

10387
10400/1

Papen and, if mercy can survive his record in Czechoslovakia, Neurath, are in like case with Raeder. Like him they professed old family and professional integrity, factors which carry with them a great responsibility from which men like Ribbentrop and Kaltenbrunner are free. Within 18 months of putting Hitler in

H5156 - 0117

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D 841
GB 474

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D 180
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1061 PS
US 171

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2545 PS
US 869

10387
10400/1

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H5156 - 0118

power Papen knew that Hitler's Govern nt meant oppression of opponents, ill-treatment of the Jews and persecution of the Churches including his own. His recent political friends had been sent to concentration camps or killed, including men like von Schleicher and von Bredow. He had himself been arrested, two members of his staff killed and another compelled to witness killing. None of these things were hidden from von Neurath, yet he remained in office.

In 1935 Papen was writing sycophantic letters to Hitler and shortly afterwards we find him in Austria working for a man he knows to be a murderer, undermining a regime for which he professed outward friendship. Even after the Anschluss he was still working for a regime which he knew used murder as an instrument of policy and after losing yet another secretary by murder, he was ready to accept a post in Turkey. The Concordat with his own Church which he had himself negotiated is treate s "a scrap of paper" to use his own words, and Catholics from Archbishops to simple believers

11945 were outraged. He has said

11859 "Hitler was the greatest crook that every lived".

The case for the Prosecution in a sentence is that, knowing this only too well, von Papen gave him his support and co-operation because his greed for power and office made it "better to reign in Hell than to serve in Heaven".

PS 3460
US 437 As to Seyss-Inquart, you will remember Goering's instructions to him on the 26th March, 1938, to institute anti-semitic measures

PS 816
US 261 in Austria, followed by the Progress report on 12th November by one of his officials. As far as concerns the Jews in the Netherlands, he admits that he knew they were being deported but says he was powerless to stop it as it was ordered from Berlin. He has further said that he knew they went to Auschwitz but

11413 says he sent there to

enquire about them, was told they were well off and arranged for them to send mail from Auschwitz to Holland. Is it likely that Seyss-Inquart who admits knowledge of large-scale crimes against the Jews in the Netherlands, for example

11412 "a drive to force the Jews to be sterilised",

who admits that many and grave excesses occurred in the Netherlands concentration camps and indeed that in wartime he

11401 "considered that almost inevitable",

who pleads that in comparison with camps elsewhere

11405 "it was perhaps not quite so bad in the Netherlands",

- is it possible that he was really deceived as he says into thinking the people in Auschwitz were

11413 "comparatively well off"?

One comes now to the defendants Speer and Fritzshe who have appeared in this trial as experts. Speer has admitted that his responsibility for conscription of labour helped to

11988 bring up the total number of workers under him to 14,000,000. He stated that when he took over office in February 1942 all the

12102 perpetrations or violations of International Law of which he could be accused had already been realised. Nevertheless he went on to say

12102 "The workers were brought to Germany against their will. I had no objection to their being brought to Germany against their will. On the contrary, during the first period until autumn of 1942 I certainly used my energy that as many workers as possible should be brought to Germany in this manner. Further, workers were placed at his disposal by Sauckel and he was responsible for their allocation priorities.

He acknowledged the receipt of 1,000,000 Soviet labourers

R 124 p.34 (USA 179) in August 1942. On 4-1-44 he demanded 1,300,000 workers for the coming year. Speer produced no defence of this conscription

1292 PS (USA 225) of labour but did assert that from 1943 he had supported the retention of French workers in France, which is a mere matter of mitigation. The moderation of Speer's manner should not hide the fact that this policy, which he cheerfully adopted and applied, was one that meant the most appalling misery and suffering for millions of Soviet and other familes.

H5156 - 0119

H5156-0120

It displays once again the complete disregard of the fate of other people which runs like a sordid thread through the evidence in this trial, and no moral awakening regarding the interest of the German people (I repeat "the German People") at the end of the war, can offset the participation in this horrible action.

With regard to the treatment of foreign workers Speer's general point was that the evidence for the Prosecution is simply that of individual bad instances and should not be taken as the general condition. If it were the general condition he would accept responsibility. The Prosecution submit that their evidence, viewed as a whole, is conclusive evidence of general bad conditions.

Neurath, who has told the Tribunal that he joined Hitler's Government to keep it peace-loving and respectable, knew within a few weeks that the Jews were being persecuted, that reputable foreign papers and reputable German papers too were quoting official figures of ten to twenty thousand internees. He knew that the opposition, Communists, Trade-unionists and Social Democrats were being destroyed as political forces. The Blood Purge followed yet he went on and seconded Hitler in his breaches of the Treaty of Versailles. We have the evidence of Paul Schmidt that the murder of Dollfuss and the attempted Putsch in Austria seriously disturbed the career personnel of the Foreign Office whilst they regarded the Mutual Assistance Pact between France and the Soviet Union as a further very serious warning as to the potential consequences of German foreign policy.

3308 PS
(GD 288)

> "At this time the career officials at least expressed their reservations to the Foreign Minister Neurath. I do not know whether or not Neurath in turn related these expressions of concern to Hitler."

C 194
(USA 55)

Yet when Raeder was issuing orders about the danger of showing "enthusiasm for war", von Neurath would have you believe that he had failed to realise its growth. He, as much as Raeder, saw and took part in the events which followed, the secret

H5156 - 0121

meetings, the treatment of von Blomberg and von Fritsch, he it was at the time of the Anschluss who, though no longer Foreign Minister, gave the support of a name, not yet notably tarnished, to Hitler's action by transmitting untruths in denial of the British Note and by reassuring the Czechs. This reassurance should never be forgotten - there can be few things more grimly cynical than v[illegible]urath who had listened to the Hosbach speech solemnly telling M. Mastny that Hitler would stand by the Arbitration Treaty with Czechoslovakia. As soon as Hitler had marched into Prague, he it was who became Protector of Bohemia and Moravia. You have heard his admission that he applied all decrees for the treatment of the Jews which had appeared in Germany between 1933 and 1939.

12316

Fritzsche's work was to organise the entire German Press so that it became "a permanent instrument of the Propaganda Ministry". Propaganda was a most potent factor in all Nazi strategy. Here in turn that factor made all the press its most potent weapon. The fact that he knew and participated in the use of his organisation is shown by his attempt to whitewash the successive propaganda actions which led up to each of the various aggressions mentioned in his affidavit. As he said:

3469 PS
(USA 721)

3469 PS
(USA 721)

> "All news checked by me was [illegible]ll of tendency while not invented".

It is incredible that when he was called upon time after time to conduct what was specifically referred to as an action and when each time he saw the practical results he did not realise the dishonesty with which the German policy was being conducted or that the

H5156 - 0122

aim of the Nazi Government was aggressive war. His personal ability as a broadcaster caused him to become virtually an official commentator. To quote his own words:

12875

> "May I add that it is known to me that in the far corners of German colonies abroad my radio speeches were, shall we say, the political comments."

He has emphasized that in these comments he had a free hand. Is it to be doubted that this was because he was prepared to broadcast whatever lie Goebbels wanted? He himself says, in dealing with the uses to which his influence was put:

12492

> "Again and again I was requested to awaken hatred against individuals and against systems."

D.912
GB.526

You have seen a sample in his broadcast on the Athenia. As early as 1940 he broke far enough away from the restraint which he tried to picture in the witness box

USSR.492
10578

to call the Poles "under people" and "beasts in human form!"

On the 18th December 1941 he referred to the fate of European Jews in the following words:

> "The fate of Jewry in Europe has turned out to be as unpleasant as the Fuehrer predicted it would be in the event of a European war. After the extension of the war instigated by the Jews, this unpleasant fate may also spread to the New World, for you can hardly assume that the nations of the New World will pardon the Jews for the misery of which the nations of the Old World did not absolve them."

3064 PS

There were few more dreadful or hate-provoking accusations among the whole miasma of Nazi lies against the Jews, than that of instigating the war which brought such misery to humanity, yet this educated and thoughtful defendant deliberately made it.

It is difficult to imagine any more fulsome or callous adulation of Hitler's aggression than his speech on 9th October 1941 which contained the words:

3064 PS
US.123

> "..... and we are particularly grateful for these lightning victories because - as the Fuehrer emphasized last Friday - they gave us the possibility of embarking on the organization of Europe and of lifting the treasures of this old continent even in the middle of a war, without having to keep millions and millions of German soldiers on guard....."

H5156 - 0123

to 300 soldiers at the cemetery... t 9.30 hours the bus arrived loaded with men and children. I stood near the mass graves which had been prepared beforehand and I saw a woman holding one little boy by the right hand and one or two girls by the other walking from the bus to the grave. I then saw a few seconds later how the woman stood in the grave and one of the boys was handed down to her by the SS men. We then turned round and left because I did not want, nor could, witness the shooting of these children. Immediately after that I heard the shots... Shortly after that another bus arrived, loaded with Poles. An SS man shouted to the soldiers who stood around "Now you can all come in and watch." Then I went in once more and saw a group of four men step into the same mass grave in which the woman had been shot previously They were ordered to lie down and then they were liquidated by shooting through the back of their heads from a very short distance. Flesh, brains and sand were flung around over the grave and dirtied the uniforms of the soldiers who were watching. About eighty soldiers stood close to the edge of the grave. These happenings could also be seen by the civilian population from the windows of their houses opposite the Jewish cemetery."

You are asked to believe that these 21 Ministers and leading officers of State did not know about these matters - were not responsible . It is for you to decide.

Years ago Goethe said of the German people that some day fate would strike them...

> "would strike them because they betrayed themselves and did not want to be what they are. It is sad that they do not know the charm of truth, detestable that mist smoke and berserk immoderation are so dear to them, pathetic that they ingenuously submit to any mad scoundrel who appeals to their lowest instincts, who confirms them in their vices and teaches them to conceive nationalism as isolation and brutality."

With what a voice of prophecy he spoke - for these are the mad scoundrels who did those very things.

Some it may be are more guilty than others: some played a more active and direct part than others in these frightful crimes. But when those crimes are such as you have to deal with here - slavery, mass murder and world war, when the consequences of the crimes are the deaths of over 20,000,000 of our fellow men, the devastation of

H5156 -0124

a continent, the spread of untold tragedy and suffering throughout the world, what mitigation is it that some took less part than others, that some were principals and others mere accessories. What matters it if some forfeited their lives only a thousand times whilst others deserved a million deaths?

In one way the fate of these men means little: their personal power for evil lies for ever broken; they have convicted and discredited each other and finally destroyed the legend they created round the figure of their leader. But . their fate great issues must still depend, for the ways of truth and righteousness between the Nations of the world, the hope of future international cooperation in the administration of law and justice are in your hands. This trial must form a milestone in the history of civiliation, not only bringing retribution to these guilty men not only marking that right shall in the end triumph over evil, but also that the ordinary people of the world (and I make no distinction now between friend or foe) are now determined that the individual must transcend the State. The State and the law are made for man, that through them he may achieve a fuller life, a higher purpose and greater dignity. States may be great and powerful. Ultimately the rights of men, made as all men are made in the image of God, are fundamental. When the State, either because as here its leaders have lusted for power and place, or under some specious pretext that the end may justify the means, affronts these things they may for a time become obscured and submerged. But they are immanent and ultimately

H5156 - 0125

they will assert themselves more strongly still, their immanence more manifest. And so, after this ordeal to which mankind has been submitted mankind itself - struggling now to restablish in all the countries of the world the common simple things - liberty, love, understanding - comes to this Court and cries "These are our laws - let them prevail".

Then shall those other words of Goethe be translated into fact, not only, as we must hope, of the German people but of the whole community of man:

> "- thus ought the German people to behave.... giving and receiving from the world, their hearts open to every fruitful source of wonder, great through understanding and love, through mediation and the spirit - thus ought they to be, that is their destiny.

"The Father" - do you remember ..... pointed to the sky "and seemed to say something to the boy....."

H-5156

British - Final Speech - Schawcross

July 26, 1946

H5156 - 0126